

भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 20] नई दिल्ली, मई 13—मई 19, 2012, शनिवार/वैशाख 23—वैशाख 29, 1934
No. 20] NEW DELHI, MAY 13—MAY 19, 2012, SATURDAY/VAISAKHA 23—VAISAKHA 29, 1934

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पुस्तक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विधि और न्याय मंत्रालय
(विधि कार्य विभाग)

नई दिल्ली, 4 मई, 2012

का. आ. 1643.—राष्ट्रपति, दिनांक 3 अप्रैल, 2012
(अपराहन) से श्री डेरियस जे. खम्बाता, वरिष्ठ अधिवक्ता का मुंबई
उच्च न्यायालय, मुंबई में भारत के अपर महासॉलिसिटर के पद से
त्यागपत्र स्वीकार करते हैं।

[फा. सं. 18 (11)/2009-न्यायिक]

सुरेश चंद्र, संयुक्त सचिव एवं विधि सलाहकार

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 4th May, 2012

S.O. 1643.—The President is pleased to accept the
resignation of Shri Darius J. Khambata, Senior Advocate

as Additional Solicitor General of India in the High Court
of Bombay at Mumbai with effect from 3rd April, 2012
(A.N.).

[F.No. 18 (11)/2009-Judl.]

SURESH CHANDRA, Jt. Secy. & Legal Adviser

नई दिल्ली, 8 मई, 2012

का.आ. 1644.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973
(1974 का 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों
का प्रयोग करते हुए, मुंबई उच्च न्यायालय में भारत संघ या केन्द्रीय
सरकार के किसी विभाग या कार्यालय द्वारा या उसके विरुद्ध सभी
दंडिक मामलों का, जिसके अंतर्गत सभी दंडिक रिट याचिकाएं,
दंडिक अपीलें, दंडिक पुनरीक्षण, दंडिक निर्देश और दंडिक आवेदन
भी हैं, संचालन करने के प्रयोजन के लिए श्री मंदर महेश गोस्वामी,
अधिवक्ता को विधि और न्याय मंत्रालय, विधि कार्य विभाग की
अधिसूचना सं.-1 तारीख 26 नवंबर, 2009 द्वारा, जो भारत के
राजपत्र, भाग-II, खंड-3, उप-खंड (ii) तारीख 2 जनवरी, 2010
में प्रकाशित की गई थी, राजपत्र में अधिसूचना की तारीख से तीन वर्ष

की अवधि के लिए या अगले आदेशों तक लोक अभियोजक के रूप में नियुक्त किया गया था;

और विधि और न्याय मंत्रालय, विधि कार्य विभाग में सक्षम प्राधिकारी ने मुम्बई उच्च न्यायालय में भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय द्वारा या उसके विरुद्ध सभी दंडिक मामलों का जिसके अंतर्गत सभी दंडिक रिट याचिकाएं, दंडिक अपीलें, दंडिक पुनरीक्षण, दंडिक निर्देश और दंडिक आवेदन भी हैं, संचालन करने के प्रयोजन के लिए श्री मंदर महेश गोस्वामी, अधिवक्ता की लोक अभियोजक के रूप में नियुक्ति को समाप्त करने का विनिश्चय किया है।

अतः अब केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, विधि और न्याय मंत्रालय, विधायी विभाग की अधिसूचना सं. का.आ. 1, तारीख 26 नवंबर, 2009, जो भारत के राजपत्र, भाग-II, खंड-3, उप-खंड (ii) तारीख 2 जनवरी, 2010 को भारत: विखंडित करती है और मुंबई उच्च न्यायालय में भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय द्वारा या उसके विरुद्ध सभी दंडिक मामलों का, जिसके अंतर्गत सभी दंडिक रिट याचिकाएं, दंडिक अपीलें, दंडिक पुनरीक्षण, दंडिक निर्देश और दंडिक आवेदन भी हैं, संचालन करने के लिए श्री मंदर महेश गोस्वामी की लोक अभियोजक के रूप में नियुक्ति तत्काल प्रभाव से अधिसूचना से निकालती है।

[फा. सं. 23(2)/2012-न्यायिक]

सुरेश चन्द्र, संयुक्त सचिव और विधि सलाहकार

New Delhi, the 8th May, 2012

S.O. 1644.—Whereas, the Central Government, in exercise of the powers conferred under sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974) had notified the appointment of Shri Mandar Mahesh Goswami, Advocate as Public Prosecutor for conducting all criminal cases including criminal writ petitions, criminal appeals, criminal revisions, criminal references and criminal applications by or against the Union of India or any Department or Office of the Central Government, in the High Court of Judicature at Mumbai with effect from the date of publication of the notification in the Gazette of India for a period of three years or until further orders vide Ministry of Law and Justice, Department of Legal Affairs notification number S.O. 1, dated 26th November, 2009, published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated 2nd January, 2010;

And whereas, the competent authority in the Ministry of Law and Justice, Department of Legal Affairs has decided to terminate the appointment of Shri Mandar Mahesh Goswami, Advocate as Public Prosecutor for conducting all criminal cases including criminal writ petitions, criminal appeals, criminal revisions, criminal

references and criminal applications, by or against the Union of India or any Department or Office of the Central Government, in the High Court of Judicature at Mumbai;

Now, therefore, in exercise of the powers conferred under sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby partially rescind the Ministry of Law and Justice, Department of Legal Affairs Notification Number S. O. 1, dated 26th November, 2009, published in Gazette of India, Part II, Section 3, Sub-section (ii) dated 2nd January, 2010 and de-notify the appointment of Shri Mandar Mahesh Goswami as Public Prosecutor, with immediate effect, who had been appointed for conducting all criminal cases including criminal writ petitions, criminal appeals, criminal revisions, criminal references and criminal applications by or against the Union of India or any Department or Office of the Central Government, in the High Court of Judicature at Mumbai.

[F. No. 23 (2)/2012-Judl.]

SURESH CHANDRA, Jt. Secy. and Legal Adviser

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 4 मई, 2012

का. आ. 1645.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, यह घोषणा करती है कि उक्त अधिनियम की धारा 15(1) के उपबंध उस सीमा तक बैंक आफ बड़ौदा पर लागू नहीं होंगे, जहां तक इसका संबंध पूर्ववर्ती मेमन को-ऑपरेटिव बैंक लि. की विशिष्ट परिसंपत्तियों और देयताओं के अधिग्रहण से उत्पन्न होने वाले अपरिशोधित निवल घाटे के शोधन से संबंधित है जिसे वित्तीय वर्ष 2011-12, 2012-13 और 2013-14 के लिए ऐसा खर्च माना जाएगा जो मूर्त परिसंपत्तियों से संबंधित नहीं हैं।

[फा. सं. 13/1/2012-बीओए]

एम. एम. दौला, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 4th May, 2012

S.O. 1645.—In exercise of the powers conferred by Sub-section (1) of Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendations of Reserve Bank of India, hereby declares that the provisions of Section 15(1) of the said Act shall not apply to the Bank of Baroda in so far as they relate to the treatment of the unamortized net deficit

arising out of the takeover of specific assets and liabilities of erstwhile Memon Co-operative Bank Ltd., being treated as expenditure not represented by tangible assets, for the financial years 2011-12, 2012-13 and 2013-14.

[F.No. 13/1/2012-BOA]

M.M. DAWLA, Under Secy.

(राजस्व विभाग)

(सीमा शुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर आयुक्त का कार्यालय
हैदराबाद-III आयुक्तालय)

हैदराबाद, 4 मई, 2012

सं. 01/2012-कस. (गै.टै.)

का. आ. 1646.—भारत सरकार, राजस्व विभाग, वित्त मंत्रालय, नई दिल्ली की अधिसूचना सं. 33/94-सीमा शुल्क (गै.टै.) दि. 01-07-1994 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैं एतद्वारा आन्ध्रप्रदेश राज्य में करीमनगर जिला के गोल्लापल्ली राजस्व मण्डल के सर्वे सं. 269 "राघवपट्टनम" गाँव को सीमा शुल्क अधिनियम, 1962 (1962 के 52) की धारा 9 के अधीन निजी बंधक भांडागार को लाइसेंस देने के प्रयोजनार्थ, भांडागार केंद्र (100% निर्यातमुख इकाई) घोषित करता हूँ।

[फा. सी. सं. VIII/16/11/2012-टेक.-कस.]

अशोक, आयुक्त

(Department of Revenue)

(OFFICE OF THE COMMISSIONER OF CUSTOMS,
CENTRALEXCISE AND SERVICE TAX,
HYDERABAD-III COMMISSIONERATE)

Hyderabad. the 4th May, 2012

No. 01/2012-CUS (NT)

S.O. 1646.—In exercise of the powers conferred by Notification No. 33/94—Customs (NT) dated 01-07-1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I hereby declare Survey No. 269 of Raghavapatnam Village, Gollapalli Mandal, Karimnagar District, in the state of Andhra Pradesh, to be a Warehousing Station under section 9 of the Customs Act, 1962 (52 of 1962) for the purpose of licensing of Private Bonded Warehouse (100 % Export Oriented Unit).

[F.C. No. VIII/16/11/2012-Tech-Cus]

ASHOK, Commissioner

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 11 मई, 2012

(आयकर)

का. आ. 1647.—जबकि केन्द्र सरकार ने आयकर अधिनियम, 1961 (1961 का 43) (जिस बाद में उक्त अधिनियम के

रूप में संशोधित किया गया) की धारा 80झक की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार, वित्त मंत्रालय (राजस्व विभाग, केन्द्रीय प्रत्यक्ष कर बोर्ड) की अधिसूचना संख्या का.आ. 51(अ) दिनांक 8 जनवरी, 2008 तथा समय-समय पर संशोधित इस अधिसूचना के तहत औद्योगिक पार्क की योजना निर्मित एवं अधिसूचित की है;

और जबकि मैसर्स इनटाइम प्रोपर्टीज प्राइवेट लिमिटेड, मुम्बई-400051 जिसका पंजीकृत पता प्लॉट नं. सी-30, ब्लॉक-जी, बांद्रा कुर्ला कॉम्प्लेक्स बांद्रा (पूर्व), में है, ने सर्वे नं. 64 (पार्ट), माधापुर, हैदराबाद, जिला रंगारेड्डी, आंध्र प्रदेश में भवन सं. 5बी, 6 और 9 में एक औद्योगिक पार्क विकसित किया है;

अब इसलिए आयकर नियमावली, 1962 के नियम 18 ग के साथ पठित उक्त अधिनियम की धारा 80झक की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा मैसर्स इनटाइम प्रोपर्टीज प्राइवेट लिमिटेड, मुम्बई को उपक्रम के रूप में तथा सर्वे नं. 64 (पार्ट), माधापुर, हैदराबाद, जिला रंगारेड्डी, आन्ध्र प्रदेश में भवन सं. 5बी, 6 और 9 पर उक्त उपक्रम द्वारा विकसित एवं अनुरक्षित एवं प्रचालित परियोजना को इस अधिसूचना के साथ संलग्न अनुसूची में उल्लिखित शर्तों एवं निबंधनों के अधीन उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में अधिसूचित करती है।

1. औद्योगिक पार्क को स्थानीय प्राधिकरण से प्रारंभ होने के प्रमाणपत्र की तिथि जो 30 मार्च, 2009 है, को विकसित माना जाएगा।

2. औद्योगिक पार्क का स्वामी केवल एक उपक्रम होना चाहिए।

3. अधिनियम के अन्तर्गत कर लाभ उपक्रम को तभी उपलब्ध होंगे जब कम से कम तीस यूनिटें औद्योगिक पार्क में स्थित हो जाएंगी। औद्योगिक यूनिटों की न्यूनतम संख्या की गणना करने के प्रयोजनार्थ, किसी व्यक्ति एवं उसके संबद्ध उपक्रमों की सभी यूनिटों को एक यूनिट माना जाएगा।

4. संबद्ध उपक्रम की यूनिटों सहित कोई भी औद्योगिक यूनिट आबंटन योग्य क्षेत्रफल के पचीस प्रतिशत से अधिक का उपभोग नहीं करेगी।

5. वाणिज्यिक गतिविधि हेतु आबंटित क्षेत्र 10 प्रतिशत से अधिक नहीं होगा।

6. अधिनियम के अन्तर्गत कर लाभ इस अधिसूचना के तहत अधिसूचित उपक्रम को ही उपलब्ध होगा तथा न कि किसी अन्य व्यक्ति को जो बाद में किसी कारणवश अधिसूचित औद्योगिक पार्क को विकसित कर सकता है, विकसित करता है तथा प्रचालन करता है अथवा अनुरक्षण करता है तथा प्रचालित करता है।

7. औद्योगिक यूनिटें केवल वहीं कार्य-कलाप करेंगी जिन्हें औद्योगिक पार्क (संशोधन) स्कीम, 2010 में विनिर्दिष्ट किया गया है।

8. उपक्रम को औद्योगिक पार्क के लिए अलग खाता-बही रखनी चाहिए तथा नियत तिथि तक आयकर विभाग को अपनी आयकर विवरणी दाखिल करनी चाहिए।

9. यह अधिसूचना अमान्य हो जाएगी तथा मैसर्स इन्टाइम प्रॉपर्टीज प्राइवेट लिमिटेड ऐसी अमान्यता की किसी भी प्रतिक्रिया के लिए पूरी तरह उत्तरदायी होंगे, यदि

- (i) इसके द्वारा दाखिल आवेदन तथा परवर्ती दस्तावेज जिसके आधार पर केन्द्र सरकार द्वारा अधिसूचना जारी की जाती है, में गलत सूचना या मिथ्या जानकारी होती है अथवा कुछ वस्तुगत सूचना इसमें नहीं दी गई होती है।
- (ii) यह ऐसे औद्योगिक पार्क के अवस्थान के लिए है जिसके लिए किसी अन्य उपक्रम के नाम में अधिसूचना पहले ही जारी की जा चुकी है।

10. उपक्रम प्रपत्र आई पी एस-II में एक वार्षिक रिपोर्ट केन्द्रीय प्रत्यक्ष कर बोर्ड को प्रस्तुत करेगा।

11. इस अधिसूचना में उल्लिखित शर्तों तथा औद्योगिक पार्क (संशोधन) स्कीम, 2010 में शामिल की गई शर्तों का उस अवधि के दौरान पालन होना चाहिए जिसके लिए इस स्कीम के अन्तर्गत लाभ उठाए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है, यदि उपक्रम किन्हीं भी शर्तों का पालन करने में असमर्थ होता है।

12. केन्द्र सरकार के अनुमोदन के बिना परियोजना प्लान में किसी संशोधन अथवा भविष्य में अभिज्ञान अथवा आवेदक द्वारा किसी वस्तुगत तथ्य को प्रकट न करने से औद्योगिक पार्क का अनुमोदन अमान्य हो जाएगा।

[अधिसूचना सं. 17/2012/फा. सं. 178/38/2009-आईटीए-1]

सुरभि शर्मा, अवर सचिव (आईटीए-1)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 11th May, 2012

(INCOME-TAX)

S.O. 1647.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notification of the Government of India in the Ministry of Finance (Department of Revenue, Central Board of Direct Taxes) vide number S.O. 51 (E) dated the 8th January, 2008 and amended from time to time;

And whereas M/s. Intime Properties Private Limited, Mumbai having its registered address at Plot No C-30, Block-G, Bandra-Kurla Complex, Bandra(East), Mumbai-400051 has developed an Industrial Park at

Building No. 5B, 6 and 9 at Survey No 64 (part), Madhapur, Hyderabad, Distt. Rangareddy, Andhra Pradesh

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act read with Rule 18 C of the Income Tax Rules, 1962, the Central Government hereby notifies M/s. Intime Properties Private Limited., Mumbai as an undertaking and the project at Building No. 5B, 6 and 9 at Survey No 64 (part) Madhapur, Hyderabad, Distt. Rangareddy, Andhra Pradesh being developed and being maintained and operated by the said undertaking, as an industrial park for the purposes of the said clause (iii) subject to the following terms and conditions :—

1. The Industrial Park shall be construed as developed on the date of commencement certificate from the local authority which is 30-03-2009.
2. The industrial park should be owned by only one undertaking.
3. The tax benefits under the Act will be available to the undertaking only after minimum number of thirty units are located in the Industrial Park. For the purpose of computing the minimum number of industrial units, all units of a person and his associated enterprises will be treated as a single unit.
4. No industrial unit, along with the units of an associated enterprise, shall occupy more than twenty five per cent of the allocable area.
5. The area allocated for commercial activity shall not be more than 10%.
6. The tax benefits under the Act will be available only to the undertaking notified vide this notification and not to any other person who may subsequently develop, develops and operates or maintains and operates the notified industrial park, for any reason.
7. The Industrial units shall undertake only those activities as specified in Industrial Park (Amendment) Scheme, 2010.
8. The undertaking must keep separate books of accounts for the industrial park and must file its income tax returns by the due date to the Income-tax department.
9. The notification will be invalid and M/s. Intime Properties Private Ltd shall be solely responsible for any repercussions of such invalidity, if
 - (i) the application and subsequent documents furnished by it, on the basis of which the notification is issued by the Central Government

contains wrong information/misinformation or some material information has not been provided in it.

- (ii) it is for the location of the industrial park for which notification has already been issued in the name of another undertaking.

10. The undertaking shall furnish an annual report to the Central Board of Direct Taxes in Form IPS-II.

11. The conditions mentioned in this notification as well as those included in the Industrial Park (Amendment) Scheme, 2010 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case the undertaking, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 17/2012/F.No. 178/38/2009-ITA-I]

SURABHI SHARMA, Under Secy. (ITA-I)

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 4 अप्रैल, 2012

का. आ. 1648.—इस मंत्रालय की दिनांक 19-01-2012 की समसंख्यक अधिसूचना के अनुक्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के मुंबई सलाहकार पैनल में निम्नलिखित व्यक्तियों को तत्काल प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, पैनल के सदस्यों के रूप में नियुक्त करती है;

क्रम सं.	नाम
1.	श्री सतविंदर सिंह
2.	श्री प्रवीण मुखी

[फा. सं. 809/2/2011-एफ (सी)]

निरुपमा कोत्रु, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 4th April, 2012

S.O. 1648.—In continuation of Ministry's Notification of even number dated 19-01-2012 and in exercise of the powers conferred by sub-section (1) of

Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint the following persons as members of Mumbai Advisory Panel of Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier :

S. No. Name

1. Shri Satvinder Singh
2. Shri Praveen Mookhey

[F. No. 809/2/2011-F (C)]

NIRUPAMA KOTRU, Director (Films)

नई दिल्ली, 19 अप्रैल, 2012

का. आ. 1649.—इस मंत्रालय की दिनांक 06-03-2012 की समसंख्यक अधिसूचना के अनुक्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के कोलकाता सलाहकार पैनल में श्री अमिताभ रे को तत्काल प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, पैनल के सदस्यों के रूप में नियुक्त करती है;

[फा. सं. 809/8/2011-एफ (सी)]

निरुपमा कोत्रु, निदेशक (फिल्म)

New Delhi, the 19th April, 2012

S.O. 1649.—In continuation of Ministry's Notification of even number dated 06-03-2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri Amitabh Ray as a member of Kolkata Advisory Panel of Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/8/2011-F (C)]

NIRUPAMA KOTRU, Director (Films)

नई दिल्ली, 19 अप्रैल, 2012

का. आ. 1650.—इस मंत्रालय की दिनांक 19-01-2012 की समसंख्यक अधिसूचना के अनुक्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1)

द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार केंद्रीय फिल्म प्रमाणन बोर्ड के कटक सलाहकार पैनल में श्री त्रिगुणातीता देव को तत्काल प्रभाव से दो वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, पैनल के सदस्यों के रूप में नियुक्त करती है।

[फा. सं. 809/9/2011-एफ (सी)]

निरुपमा कोत्रु, निदेशक (फिल्म)

New Delhi, the 19th April, 2012

S.O. 1650.—In continuation of Ministry's Notification of even number dated 19-01-2012 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri Trigunateeta Deo as a member of Cuttack Advisory Panel of Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/9/2011-F (C)]

NIRUPAMA KOTRU, Director (Films)

विदेश मंत्रालय

(सीपीवी विभाग)

नई दिल्ली, 4 मई, 2012

का. आ. 1651.—राजनयिक और कौंसलीय ऑफिसर (शपथ और फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में, केंद्र सरकार एतद्वारा श्री रवि सिंह और श्री मोहम्मद अबुदस सालेम सहायक को 4-5-2012 से भारत के कौंसलावास, जद्दा में सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/01/2006]

आर. के. पेरिन्डिया, अवर सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 4th May, 2012

S.O. 1651.—In pursuance of the clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Shri Ravi Singh, Assistant and Shri Mohd Abqus Salam, Assistant Consulate General of India, Jeddah to perform their duties of Assistant Consular Officers with effect from 4th May, 2012.

[No. T. 4330/01/2006]

R. K. PERINDIA, Under Secy. (Consular)

नई दिल्ली, 4 मई, 2012

का. आ. 1652.—राजनयिक और कौंसलीय ऑफिसर (शपथ और फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के

खंड (क) के अनुसरण में, केंद्र सरकार एतद्वारा श्री अमरदीप सिंह चरक और श्री राजू भूषण लकरा, सहायक को 4-5-2012 से भारत के उच्चायोग, ढाका में सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/01/2006]

आर. के. पेरिन्डिया, अवर सचिव (कौंसुलर)

New Delhi, the 4th May, 2012

S.O. 1652.—In pursuance of clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Shri Amardeep Singh Virk and Shri Raj Bhushan Lakra, High Commission of India, Dhaka to perform their duties of Assistant Consular Officers with effect from 4th May, 2012.

[No. T. 4330/01/2006]

R. K. PERINDIA, Under Secy. (Consular)

रसायन और उर्वरक मंत्रालय

(उर्वरक विभाग)

नई दिल्ली, 30 अप्रैल, 2012

का. आ. 1653.—केन्द्रीय सरकार राजभाषा "संघ के शासकीय प्रयोजनों के लिए प्रयोग" नियम 1976 के नियम 10 के उप-नियम (4) के अनुसरण में रसायन एवं उर्वरक मंत्रालय, उर्वरक विभाग के प्रशासनिक नियंत्रणाधीन दि फर्टिलाइजर्स एण्ड केमिकल्स ट्रावन्कोर लिमिटेड (एफएसीटी) कोयम्बतूर, क्षेत्रीय कार्यालय/कृषि सेवा केंद्र, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं. ई-11011/4/2008-हिंदी]

सतीश चंद्र, संयुक्त सचिव

MINISTRY OF CHEMICALS AND FERTILIZERS

(Department of Fertilizers)

New Delhi, the 30th April, 2012

S.O. 1653.—In pursuance of sub-rule (4) of the Rule 10 of the Official Language "Use for Official Purposes of the Union" Rule, 1976 the Central Govt. hereby notifies the Office of the Fertilizers and Chemicals Travancore Ltd. (FACT) Coimbatore, Regional Office/Krishi Sewa Kendra under the administrative control of the Ministry of Chemicals & Fertilizers, Department of Fertilizers whereof more than 80% staff have acquired the working knowledge of Hindi.

[No. E-11011/4/2008-Hindi]

SATISH CHANDRA, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

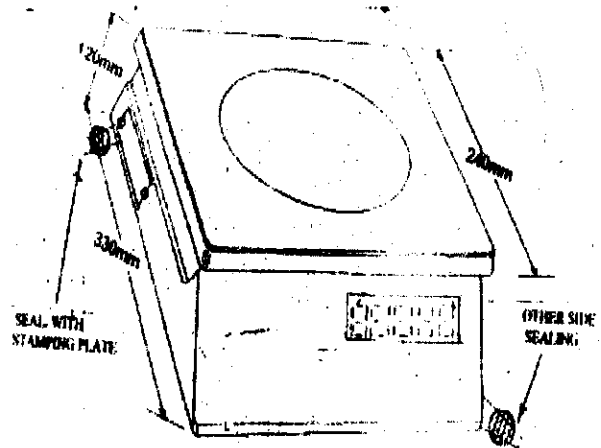
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1654.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम, 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ममता स्केल कं., पोस्ट-खेड, सलईवाडा, तह. खेड, जिला-रतनगिरी, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "बीडीटी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप मल्टी स्केल इंटरवल टाइप) के मॉडल का, जिसके ब्रांड का नाम "ब्लू स्टार" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/465 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप मल्टी स्केल इंटरवल टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 40 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. 12 कि.ग्रा. तक, 12 कि.ग्रा. से ऊपर 30 कि.ग्रा. तक 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। एलईडी/एलसीडी प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (234)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

New Delhi, the 27th February, 2012

S.O. 1654.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table Top-Multi Scale Interval Type) with digital indication of medium accuracy (accuracy class-III) of series "BDT" and with brand name "BLUE STAR" (hereinafter referred to as the said model), manufactured by M/s. Mamta Scale Co., AT Post-Khed, Saliwada, Tal. Khed, Dist Ratnagiri, Maharashtra and which is assigned the approval mark IND/09/11/465.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table Top-Multi Scale Interval Type) with a maximum capacity of 30 kg and minimum capacity of 40 g. The verification scale interval (e) is 2 g. up to 12 kg, above 12 kg and up to 30 kg is 5 g. It has a tare device with a 100 per cent subtractive retained tare effect. The LED/LCD Display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.



Figure-1

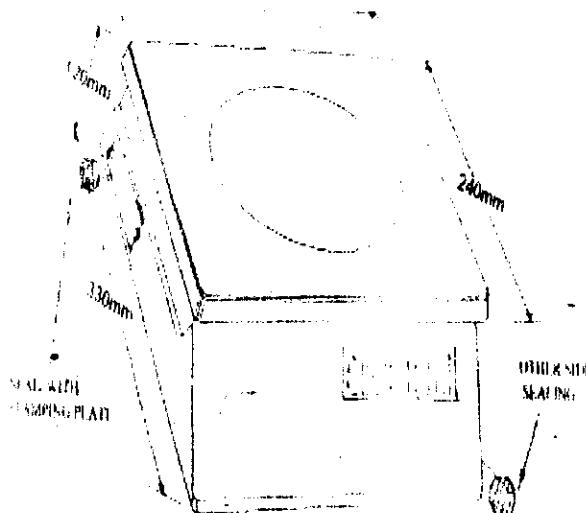


Figure-2 : Schematic Diagram of the sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg. to 2 g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where 'k' is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (234)/2011]

B. N. DIXIT, Director of Legal Metrology

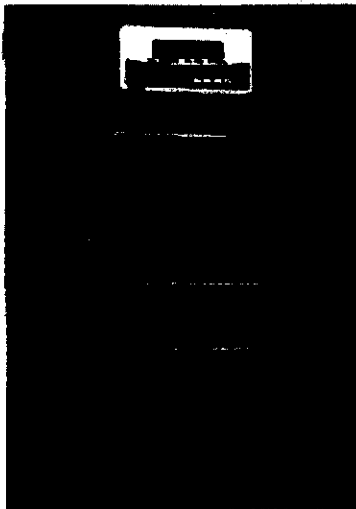
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1655.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ममता स्केल कं., एटी पोस्ट-खेड, सलईवाडा, तह. खेड, जिला रतनागिरी, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "बीडीपी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म मल्टी स्केल इंटरवल टाइप) के मॉडल का, जिसके ब्रांड का नाम "ब्लू स्टार" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/466 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म मल्टी स्केल इंटरवल टाइप) है। इसकी अधिकतम क्षमता 300 कि.ग्रा. और न्यूनतम क्षमता 400 ग्रा. है। सत्यापन मापमान अंतराल (ई) 20 ग्रा. 120 कि.ग्रा. तक 120 कि.ग्रा. से ऊपर 300 कि.ग्रा. तक 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। एलईडी/एलसीडी प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (234)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

1640 61/12-2

New Delhi, the 27th February, 2012

S.O. 1655.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform-Multi Scale Interval Type) with digital indication of medium accuracy (accuracy class-III) of series "BDT" and with brand name "BLUE STAR" (hereinafter referred to as the said model), manufactured by M/s. Mamta Scale Co., AT Post-Khed, Saliwada, Tal. Khed, Distt. Ratnagiri, Maharashtra and which is assigned the approval mark IND/09/11/466.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform-Multi Scale Interval Type) with a maximum capacity of 300kg and minimum capacity of 400g. The verification scale interval (e) is 20g. up to 120kg. above 120kg. and up to 300kg. is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The LED/LCD Display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1

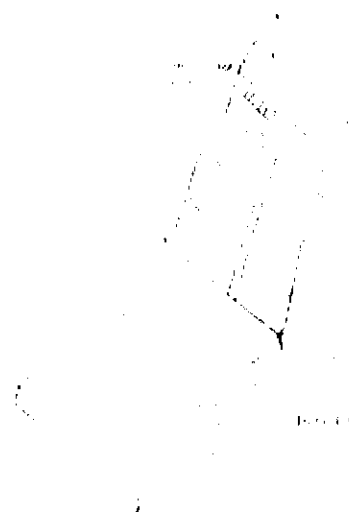
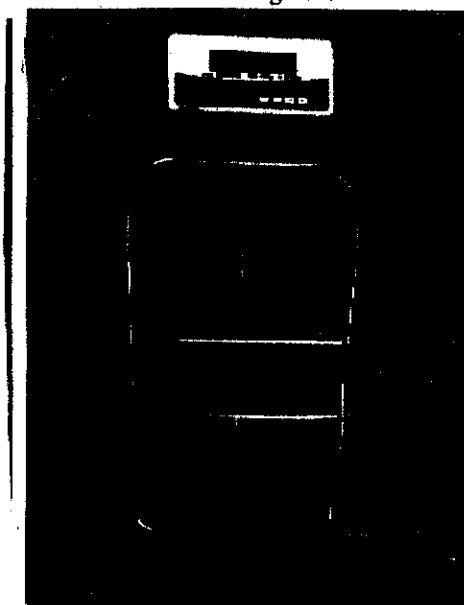


Figure-2 : Schematic Diagram of the sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000 kg. with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (234)/2011]

B. N. DIXIT, Director of Legal Metrology

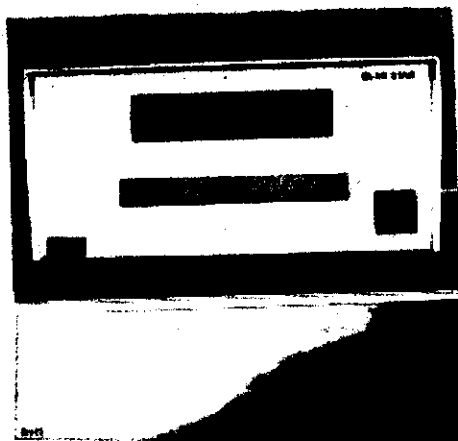
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1656.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम, 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ममता स्केल कं., ऐटी पोस्ट-खेड, सलईवाडा, तह. खेड, जिला रतनागिरी, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "बीएसडब्ल्यू" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) के मॉडल का, जिसके ब्रांड का नाम "ब्लू स्टार" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/467 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) है। इसकी अधिकतम क्षमता 50 टन और न्यूनतम क्षमता 100 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। एलईडी/एलसीडी तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा.या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से 200 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (234)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1656.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (electronic weighbridge) with digital indication of medium accuracy (accuracy class-III) of series "BSW" and with brand name "BLUE STAR" (hereinafter referred to as the said model), manufactured by M/s. Mamta Scale Co., AT Post-Khed, Saliwada, Tal. Khed, Dist. Ratnagiri, Maharashtra and which is assigned the approval mark IND/09/11/467.

The said model is a strain gauge type load cell based non-automatic weighing instrument (electronic weighbridge) with a maximum capacity of 50 tonne and minimum capacity of 100kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 per cent subtractive retained tare effect. The LED/LCD Display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1

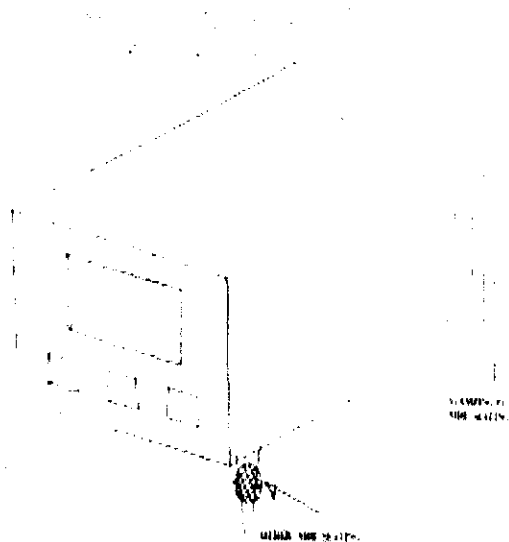
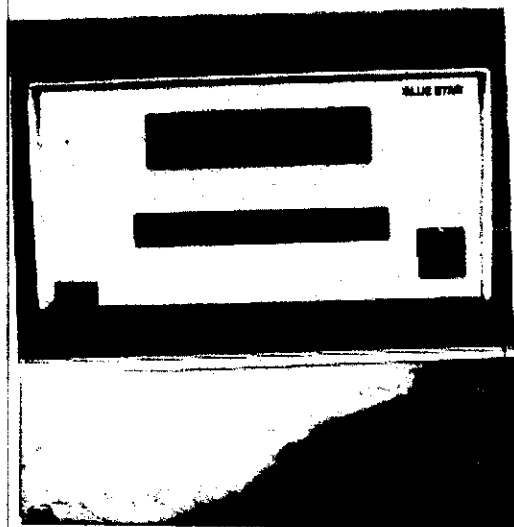


Figure-2 : Schematic Diagram of the sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with above 5 tonne and up to 200 tonne with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (234)/2011]

B. N. DIXIT, Director of Legal Metrology

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1657.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of high accuracy (Accuracy Class-II) of series "BI 3" and with brand name "BI" (hereinafter referred to as the said Model), manufactured by M/s. Bhavani Industries, 12/10, M. L. Wadi, Near Johnson & Johnson, Dharavi, Mumbai-400017 and which is assigned the approval mark IND/09/11/505.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 300 kg. and minimum capacity of 1 k.g. The verification scale interval (e) is 20 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1



Figure-2 : Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000 kg. with verification scale interval (n) in the range of 5000 to 1,00,000 for 'e' value of 100 mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where 'k' is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No. WM-21 (278)/2011]

B. N. DIXIT, Director of Legal Metrology

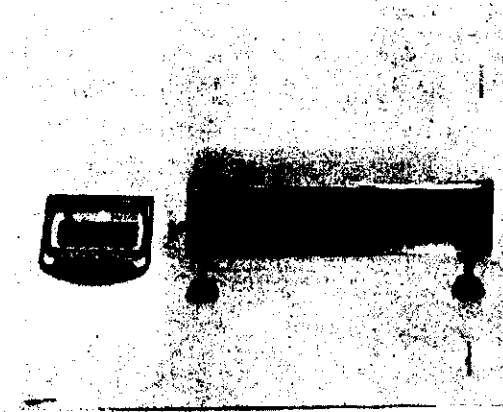
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1658.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स भवानी इंडस्ट्रिज, 12/10, एम. एल. वाडी, नियर जोनसन एंड जोनसन, धारवी, मुंबई-400017 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "बीआई 4" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम "बी आई" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/506 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



SIGNAL, WIRE

A. S. 1000 of the platform Scale— Errors for 1 kg.

आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकालकर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को राकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (278)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1658.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (Accuracy Class-III) of series "BI 4" and with brand name "BI" (hereinafter referred to as the said Model), manufactured by M/s. Bhavani Industries, 12/10, M. L. Wadi, Near Johnson & Johnson, Dharavi, Mumbai-400017 and which is assigned the approval mark IND/09/11/506.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg. and minimum capacity of 2 kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50 Hertz alternative current power supply.

Figure-1

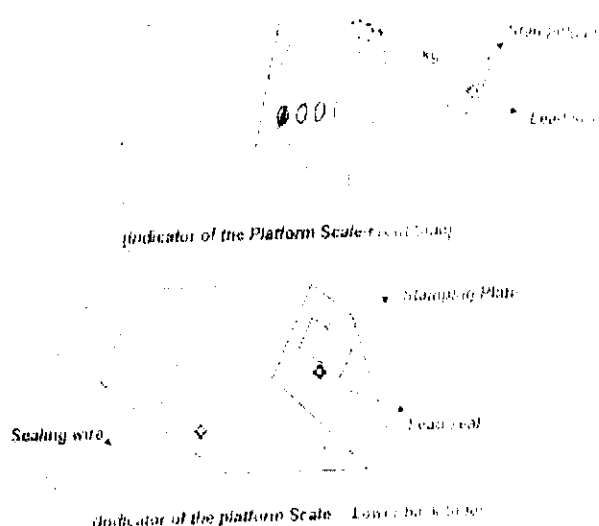
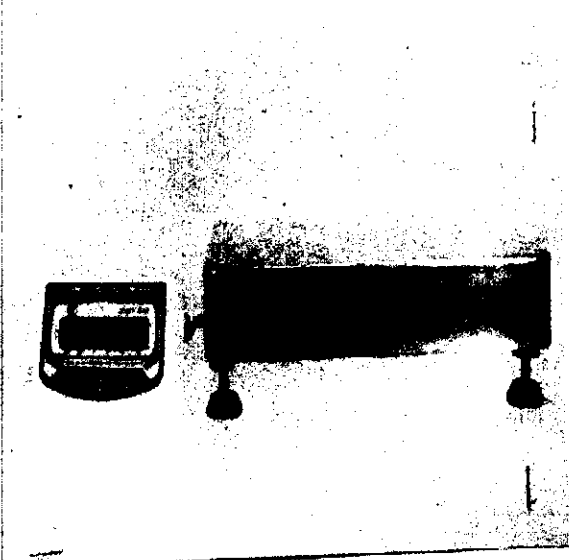


Figure-2 : Schematic Diagram of sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No. WM-21 (278)/2011]

B. N. DIXIT, Director of Legal Metrology

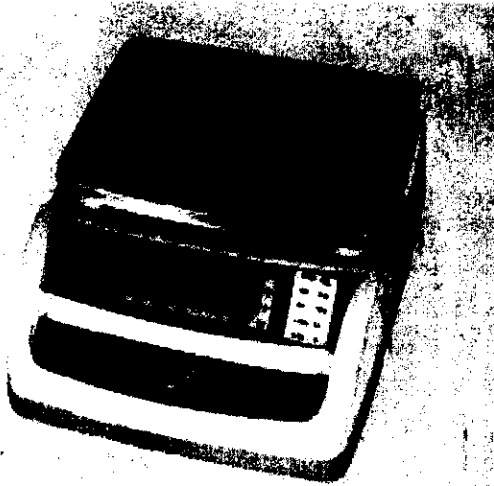
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1659.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स भवानी इंडस्ट्रिज, 12/10, एम. एल. वाडी, नियर जोनसन एंड जोनसन, धारवी, मुंबई-400017 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "बीआई 2" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) के प्रॉडल का, जिसके ब्रांड का नाम "बी आई" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई"एन डी/09/11/507 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श प्रकाश तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकालकर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-6} , 2×10^{-6} , 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (278)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

16406/12-3

New Delhi, the 27th February, 2012

S.O. 1659.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of medium accuracy (Accuracy Class-III) of series "BI 2" and with brand name "BI" (hereinafter referred to as the said Model), manufactured by M/s. Bhavani Industries, 12/10, M. L. Wadi, Near Johnson & Johason, Dharavi, Mumbai-400017 and which is assigned the approval mark IND/09/11/507;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100 g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50 Hertz alternative current power supply.

Figure-1



Figure-2 Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg. to 2g. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (278)/2011]

B. N. DIXIT, Director of Legal Metrology

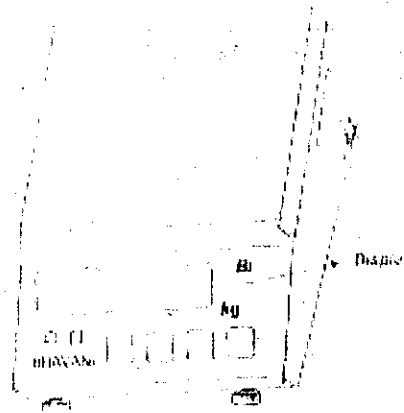
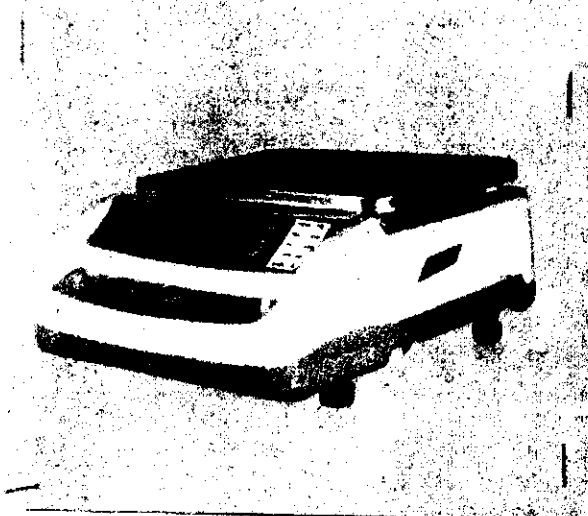
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1660.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स भवानी इंडस्ट्रिज, 12/10, एम. एल. वाड़ी, नियर जोनसन एंड जोनसन, धारवी, मुंबई-400017 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-III) वाले "बीआई 1" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) के मॉडल का, जिसके ब्रांड का नाम "बी आई" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/508 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है ;

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकालकर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक के "ई" मान के लिए 100 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (278)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1660.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of high accuracy (Accuracy Class-II) of series "BI 1" and with brand name "BI" (hereinafter referred to as the said Model), manufactured by M/s. Bhavani Industries, 12/10, M. L. Wadi, Near Johnson & Johason, Dharavi, Mumbai-400017 and which is assigned the approval mark IND/09/11/508; .

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100 g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50 Hertz alternative current power supply.

Figure-1

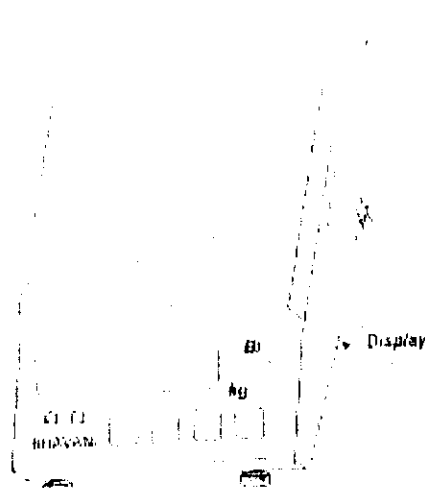
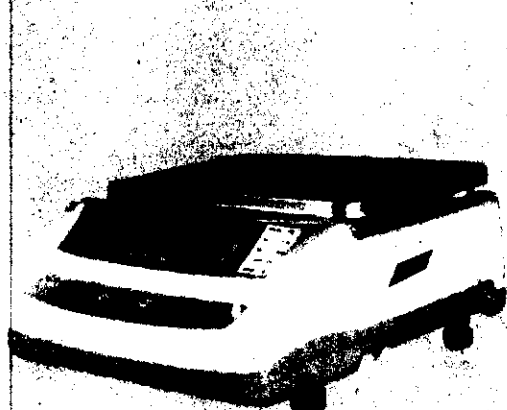


Figure-2 Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 100,000 for 'e' value of 1 mg. to 50mg. and with verification scale interval (n) in the range of 5000 to 100,000 for 'e' value of 100 mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (278)/2011]

B. N. DIXIT, Director of Legal Metrology

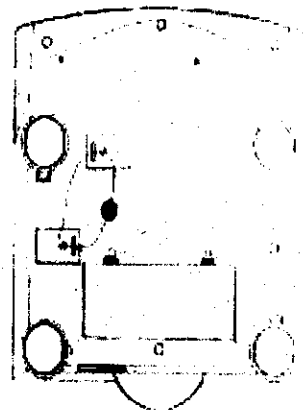
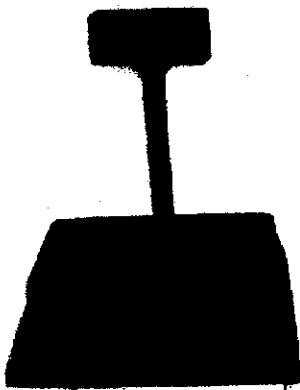
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1661.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स श्री लक्ष्मी स्केल, शीलावंतरा ओनी, एम के काम्पलैक्स, हुबली-580020 कर्नाटक द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "एसएलएस-1" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप टाइप) के मॉडल का, जिसके ब्रांड का नाम "श्री लक्ष्मी" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/419 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकालकर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विविधता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे। मि.ग्रा. से 50 मि.ग्रा. तक के "ई" मान के लिए 100 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक घूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (242)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1661.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table Top Type) with digital indication of high accuracy (accuracy class-II) of series "SLS-I" and with brand name "SHRI LUXMI" (hereinafter referred to as the said model), manufactured by M/s. Shri Laxmi Scale, Sheelavantra Oni, M. K. Complex, Hubli-580020, Karnataka and which is assigned the approval mark IND/09/11/419;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table Top Type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1

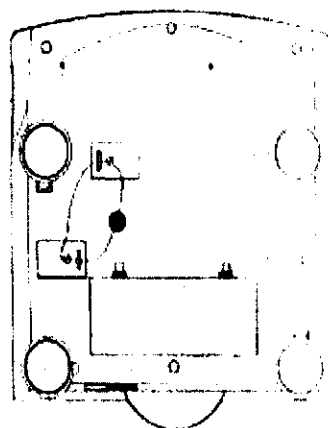
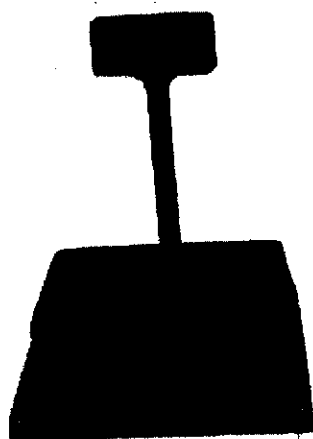


Figure-2 : Schematic Diagram of the sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg. with verification scale interval (n) in the range of 100 to 100,000 for 'e' value of 1mg. to 50mg. and with verification scale interval (n) in the range of 5000 to 100,000 for 'e' value of 100mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (242)/2011]

B. N. DIXIT, Director of Legal Metrology

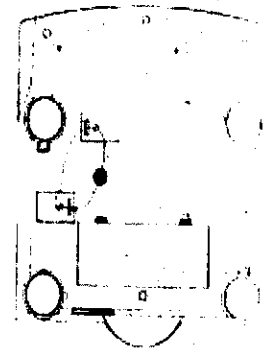
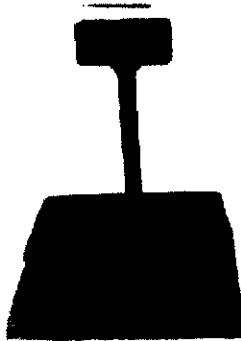
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1662.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009(2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम(4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009(2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स श्री लक्ष्मी स्केल, शीलावंतरा ओनी, एम के काम्पलैक्स, हुबली-580020 कर्नाटक द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एसएलएस-II" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) के मॉडल का, जिसके ब्रांड का नाम "श्री लक्ष्मी" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/420 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकालकर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे 100 मि.ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (242)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1662.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table Top Type) with digital indication of medium accuracy (accuracy class-III) of series "SLS-I" and with brand name "SHRI LAXMI" (hereinafter referred to as the said model), manufactured by M/s. Shri Laxmi Scale, Sheelavantra Oni, M. K. Complex, Hubli-580020, Karnataka and which is assigned the approval mark IND/09/11/420 ;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table Top Type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1

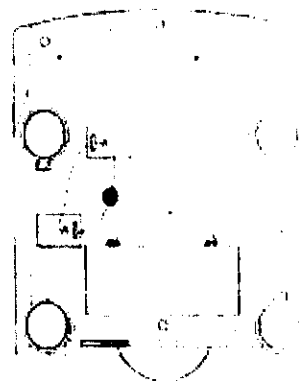


Figure-2 : Schematic Diagram of the sealing provision of the model.

Sealing is done on the display by passing sealing-wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (242)/2011]

B. N. DIXIT, Director of Legal Metrology

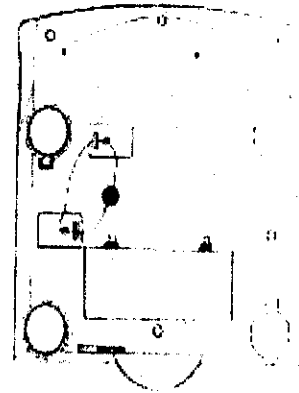
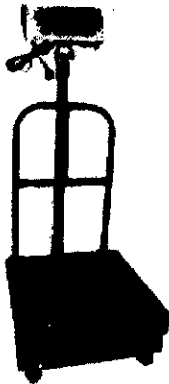
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1663.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009(2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम(4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009(2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए मैसर्स श्री लक्ष्मी स्केल, शीलावंतरा ओनी, एम के काम्पलैक्स, हुबली-580020 कर्नाटक द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले "एसएलएस-III" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम "श्री लक्ष्मी" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/421 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 2.5 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाडी में से सीलिंग वायर निकालकर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी कलिब्रेशन तक पहुंच की सुविधा है। बाहरी कलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (242)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1663.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform Type) with digital indication of high accuracy (accuracy class-II) of series "SLS-III" and with brand name "SHRI LAXMI" (hereinafter referred to as the said model), manufactured by M/s. Shri Laxmi Scale, Sheelavantra Oni, M. K. Complex, Hubli-580020, Karnataka and which is assigned the approval mark IND/09/11/421.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform Type) with a maximum capacity of 1000 kg. and minimum capacity of 2.5kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1

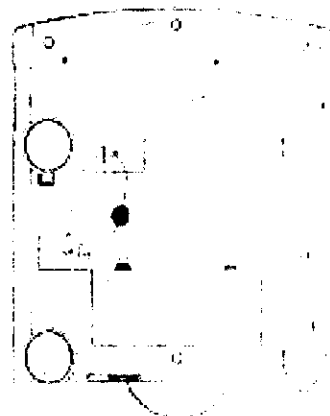
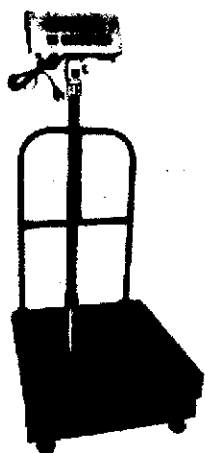


Figure-2 : Schematic Diagram of the sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg. and up to 5000 kg. with verification scale interval (n) in the range of 5000 to 100,000 for 'e' value of 100mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (242)/2011]

B. N. DIXIT, Director of Legal Metrology

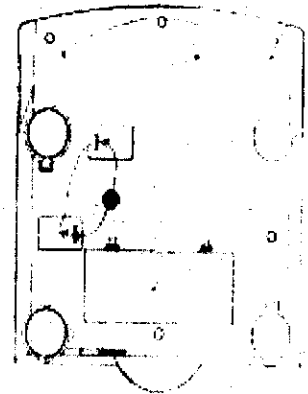
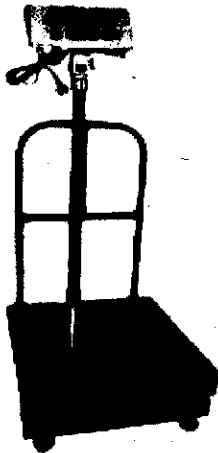
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1664.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स श्री लक्ष्मी स्केल, शीलावंतरा ओनी, एम के काम्पलैक्स, हुबली-580020 कर्नाटक द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "एसएलएस-IV" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम "श्री लक्ष्मी" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/422 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 1500 कि.ग्रा. और न्यूनतम क्षमता 4 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे, 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, या $5 \times 10^*$ के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(242)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1664.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (accuracy class-III) of series "SLS-IV" and with brand name "SHRILUXMI" (hereinafter referred to as the said model), manufactured by M/s. Shri Laxmi Scale, Sheelavantra Oni, M. K. Complex, Hubli-580020, Karnataka and which is assigned the approval mark IND/09/11/422;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1500 kg and minimum capacity of 4 kg. The verification scale interval (e) is 2000g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1

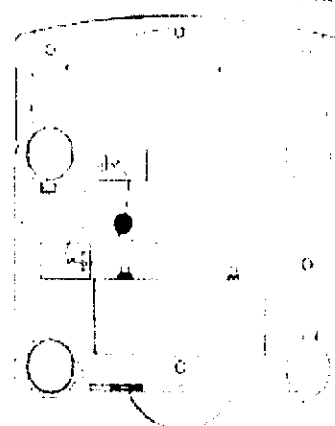
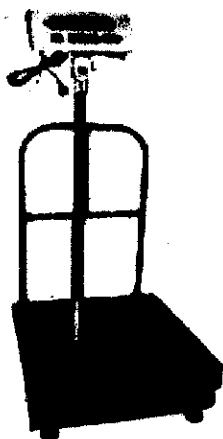


Figure-2 : Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg and up to 5000 kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(242)/2011]

B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 27 फरवरी, 2012

का.आ. 1665.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स विक्टर आटोमेशन सिस्टम, # 190, शॉप नं. 3, अनंथ रमैया कंपाउंड, सैकेंड मैन, सैकेंड क्रॉस, मैसूर रोड, चामराजपेट, बंगलूर-560018 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "वीपी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम "विक्टर" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/522 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 500 कि.ग्रा. और न्यूनतम क्षमता 1 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। एलईडी/एलसीडी/वीएफडी प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल की विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (266)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1665.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform Type) with digital indication of medium accuracy (accuracy class-III) of series "VP" and with brand name "VECTOR" (hereinafter referred to as the said model), manufactured by M/s. Shri Vector Automation Systems, #190, Shop No. 3, Anantha Ramaiah Compound, 2nd Main, 2nd Cross, Maysore Road, Chamarajpet, Bangalore-560018 and which is assigned the approval mark IND/09/11/522.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 500 kg and minimum capacity of 1kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The LED/E/LCD/VED display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1



Figure-2: Schematic Diagram of the sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (266)/2011]

B. N. DIXIT, Director of Legal Metrology

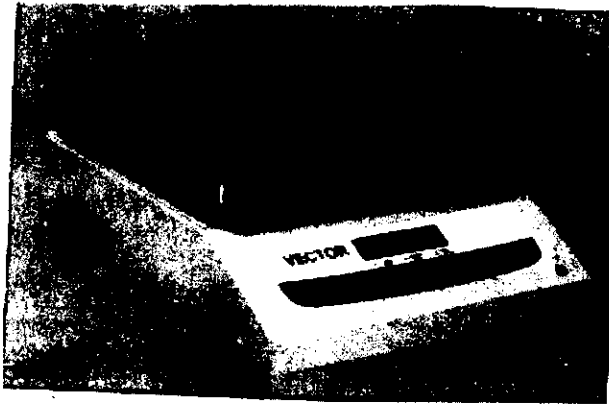
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1666.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009(2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम(4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009(2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स विक्टर आटोमेशन सिस्टम, #190, शॉप नं. 3, अनंथ रमैया कंपाउंड, सैकंड मैन, सैकंड क्रॉस, मैसूर रोड, चामराजपेट, बंगलौर-560018 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले "वीटी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) के मॉडल का, जिसके ब्रांड का नाम "विक्टर" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/523 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। (एलईडी/एलसीडी/बीएफडी प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच का रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तिया का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे 1 मि.ग्रा. से 50 मि.ग्रा. तक के "ई" मान के लिए 100 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (266)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1666.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of high accuracy (accuracy class-II) of series "VT" and with brand name "VECTOR" (hereinafter referred to as the said model), manufactured by M/s. Vector Automation Systems, #190, Shop No. 3, Anantha Ramaiah Compound, 2nd Main, 2nd Cross, Maysore Road, Chamaraipet, Bangalore-560018 and which is assigned the approval mark IND/09/11/523.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The LED/LCD/VED display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1

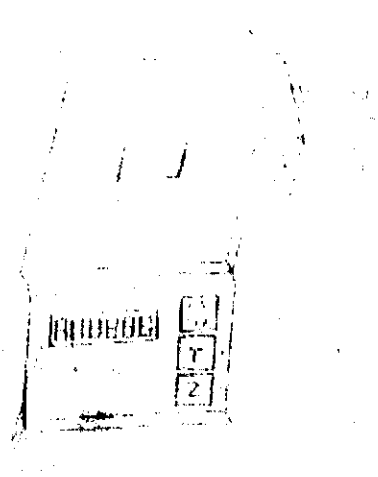
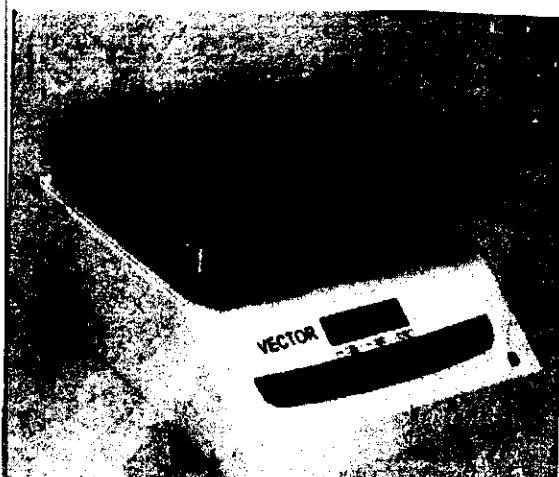


Figure-2: Sealing Diagram of the sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg. and with verification scale interval (n) in the range of 100 to 100,000 for 'e' value of 1mg. to 50mg. and with verification scale interval (n) in the range of 5000 to 100,000 for 'e' value of 100mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (266)/2011]

B. N. DIXIT, Director of Legal Metrology

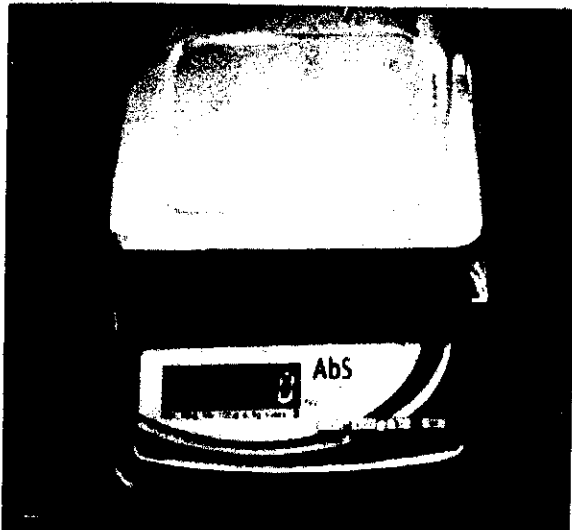
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1667.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इण्डस स्केल एंड सिस्टम्स, पीएमसी-24/70 बी कलयाणाडु, पलाचिरी-पी ओ पुनलुर, जिला कोलम-691331, केरल द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "आईएसटी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) के मॉडल का, जिसके ब्रांड का नाम "एबीएस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/401 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकालकर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-3} , 2×10^{-3} , 5×10^{-3} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (216)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1667.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table Top Type) with digital indication of medium accuracy (accuracy class-III) of series "IST" and with brand name "Abs" (hereinafter referred to as the said model), manufactured by M/s. Indus Scales and Systems, PMC-24/70B, Kalayanadu, Plachery-P.O., Punalur, Dist Kollam-691331, Kerala and which is assigned the approval mark IND/09/11/401;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table Top Type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1

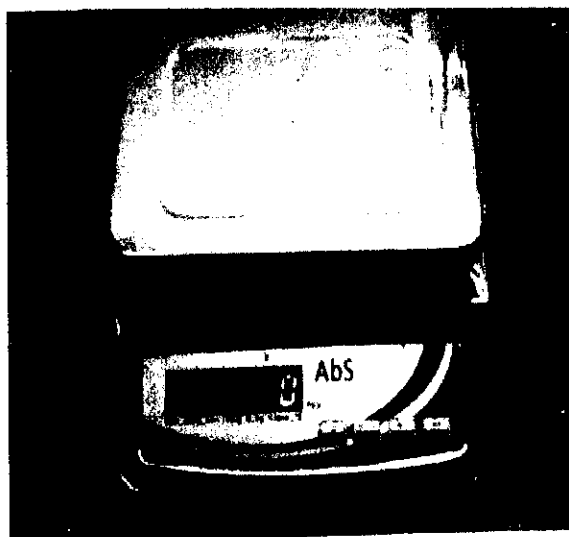


Figure-2 : Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (216)/2011]

B. N. DIXIT, Director of Legal Metrology

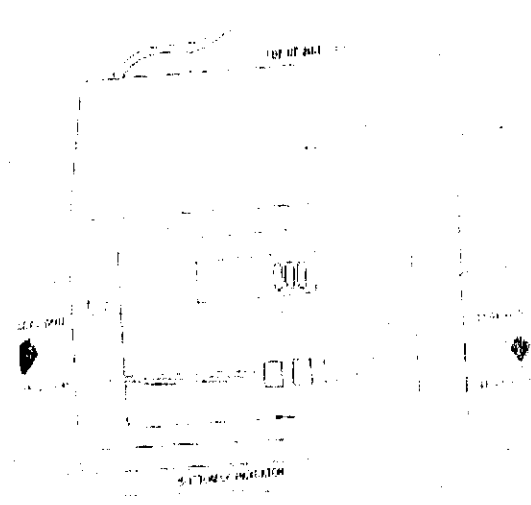
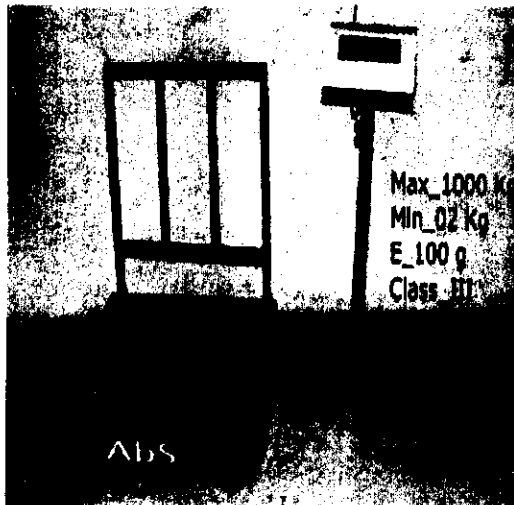
नई दिल्ली, 27 फरवरी, 2012

का.आ. 1668.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (माडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इण्डस स्केल एंड सिस्टम्स, पीएमसी-24/70 बी कलयानाडु, पलाचिरी-पी ओ पुनलुर, जिला कोलम-691331, केरल द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "आईएसपी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम "एबीएस" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/402 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 2 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाड़ी में से सीलिंग वायर निकालकर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$ के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (216)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 27th February, 2012

S.O. 1668.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform Type) with digital indication of medium accuracy (accuracy class-III) of series "ISP" and with brand name "AbS" (hereinafter referred to as the said model), manufactured by M/s. Indus Scales and Systems, PMC-24/70B, Kalayanadu, Plachery-P.O., Punalur, Dist Kollam-691331, Kerala and which is assigned the approval mark IND/09/11/402;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform Type) with a maximum capacity of 1000kg. and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1

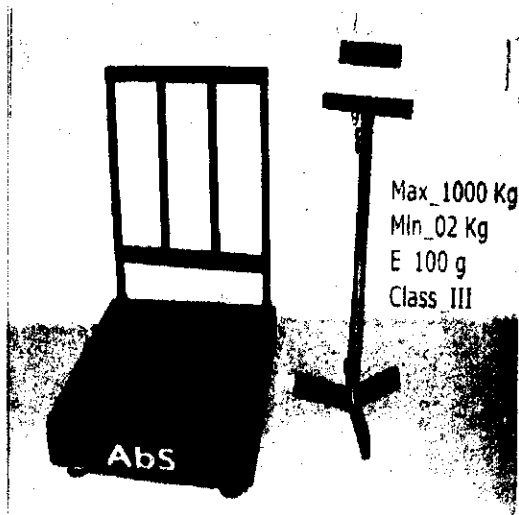


Figure-2 : Schematic Diagram of the sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (216)/2011]

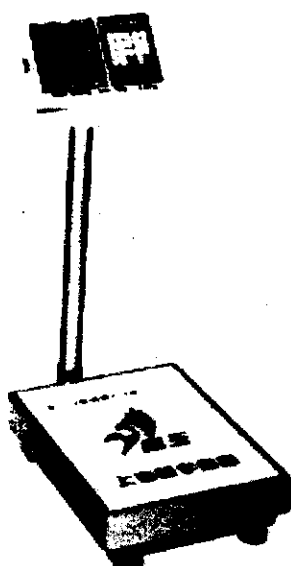
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 28 फरवरी, 2012

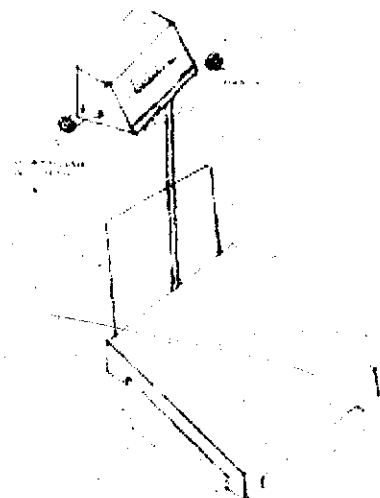
का.आ. 1669.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स झिजिआंग हाँवु इंडस्ट्री ट्रेड कं. लि. बाईहुआशन इंडस्ट्री जोन घुयी इकोनोमिक डेवलपमेंट जोन, जिनहुआ, झिजिआंग, चीन द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले “एचवाई-टी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्रांड का नाम “एसीयूआरएआईडी” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे भारत में मैसर्स श्री कृष्णा ट्रेडर्स, एस/4, शंकर भवन, 340, काथा बाजार, एन एन स्ट्रीट, मासजिद, मुम्बई-400009 द्वारा बिक्री से पूर्व या पश्चात् बिना किसी परिवर्तन के विपणीत किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/11/488 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 300 कि.ग्रा. और न्यूनतम क्षमता 1 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाडी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (219)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 28th February, 2012

S.O. 1669.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (accuracy class-III) of series "HY-T" and with brand name "ACCURAIDE" (hereinafter referred to as the said model), manufactured by M/s. Zhejiang haoyu Industry Trade Co. Ltd., Baihuashan Industry Zone Wuyi Economic Development Zone, Jinhua, Ahejiang, China And marketed in India without any alteration before or after sale by M/s. Shree Krishna Traders, S/4, Shankar Bhavan, 340, Katha Bazar, N. N. Street, Masjid, Mumbai-400009 and which is assigned the approval mark IND/09/11/488.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 300 kg. and minimum capacity of 1kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1

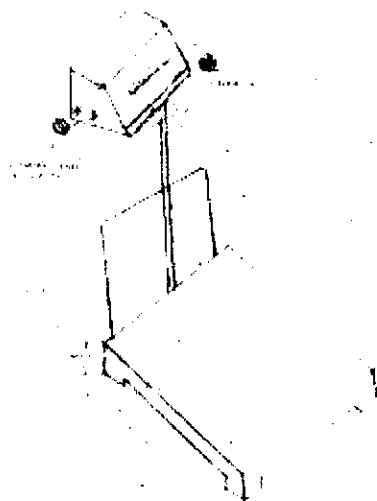
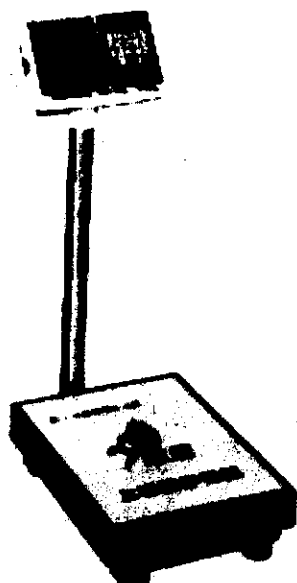


Figure-2 : Schematic Diagram of the sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate & top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg. and up to 5000kg. with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (219)/2011]

B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 28 फरवरी, 2012

का.आ. 1670.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स झिजिआंग होंगु इंडस्ट्री ट्रेड कं. लि. बाईहुआशन इंडस्ट्री जोन वूयी इकोनोमिक डेवलपमेंट जॉन, जिनहुआ, झिजिआंग, चीन द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले "एचवाई" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) के मॉडल का, जिसके ब्रांड का नाम "एसीसीयूआरएआईडीई" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे भारत में मैसर्स श्री कृष्णा ट्रेडर्स, एस/4, शंकर भवन, 340, काथा बाजार, एन एन स्ट्रीट, मासजिद, मुम्बई-400009 द्वारा बिक्री से पूर्व या पश्चात् बिना किसी परिवर्तन के विपणीत किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/11/489 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



B4728

आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकालकर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि.ग्रा. तक के "ई" मान के लिए 100 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (219)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

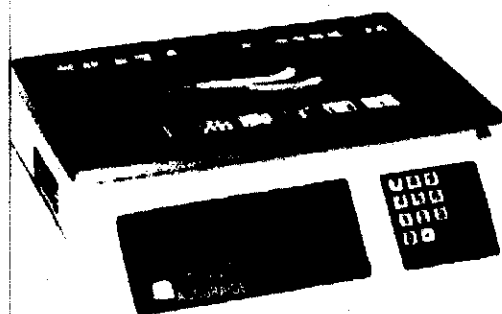
New Delhi, the 28th February, 2012

S.O. 1670.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of high accuracy (accuracy class-II) of series "HY" and with brand name "ACCURAIDE" (hereinafter referred to as the said model), manufactured by M/s. Zhejiang Haoyu Industry Trade Co. Ltd., Baihuashan Industry Zone Wuyi Economic Development Zone, Jinhua, Ahejiang, China And marketed in India without any alteration before or after sale by M/s. Shree Krishna Traders, S/4, Shankar Bhavan, 340, Katha Bazar, N. N. Street, Masjid, Mumbai-400009 and which is assigned the approval mark IND/09/11/489.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1



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Figure-2 Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 100,000 for 'e' value of 1 mg. to 50mg. and with verification scale interval (n) in the range of 5000 to 100,000 for 'e' value of 100 mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (219)/2011]

B. N. DIXIT, Director of Legal Metrology

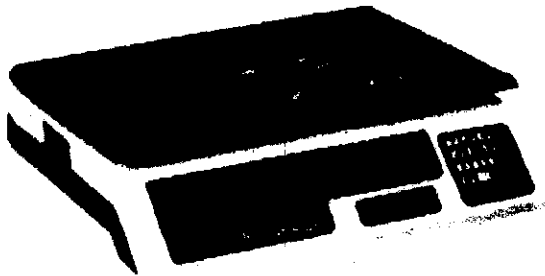
नई दिल्ली, 28 फरवरी, 2012

का.आ. 1671.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स झिजिआंग हौवु इंडस्ट्री ट्रेड कं लि. बाईहुआशन इंडस्ट्री जोन यूयी इकोनोमिक डवलपमेंट जोन, जिनहुआ, झिजिआंग, चीन द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "एचवाईटीटी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) के मॉडल का, जिसके ब्रांड का नाम "एसीसीयूआरआईडीई" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे भारत में मैसर्स श्री कृष्णा ट्रेडर्स, एस/4, शंकर भवन, 340, काथा बाजार, एन एन स्ट्रीट, मासजिद, मुम्बई-400009 द्वारा बिक्री से पूर्व या पश्चात् बिना किसी परिवर्तन के विपणीत किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/11/490 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 : मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-6} , 2×10^{-6} , 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21 (219)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 28th February, 2012

S.O. 1671.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of medium accuracy (accuracy class-III) of series "HYTT" and with brand name "ACCURAIDE" (hereinafter referred to as the said model), manufactured by M/s. Zhejiang Jaoyu Industry Trade Co. Ltd., Baihuashan Industry Zone Wuyi Economic Development Zone, Jinhua, Zhejiang, China And marketed in India without any alteration before or after sale by M/s. Shree Krishna Traders, S/4, Shankar Bhavan, 340, Katha Bazar, N. N. Street, Masjid, Mumbai-400009 and which is assigned the approval mark IND/09/11/490.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230Volts, 50Hertz alternative current power supply.

Figure-1

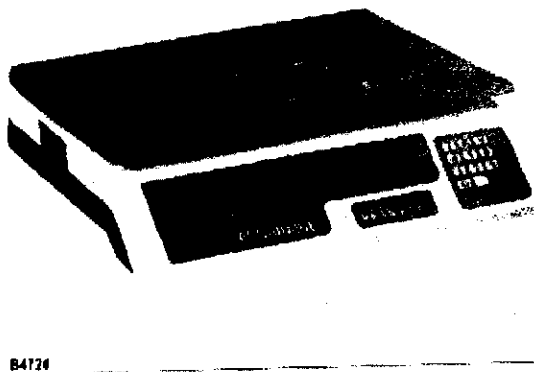


Figure-2 : Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with verification scale interval (n) in the range of 500 to 10000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (219)/2011]

B. N. DIXIT, Director of Legal Metrology

(भारतीय मानक ब्यूरो)

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1672.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1885 (भाग 51): 2012/ आई ई सी 60050-841: 2004 विद्युत तकनीकी पारिभाषिक शब्दावली भाग 51 औद्योगिक विद्युतरूपा (दूसरा पुनरीक्षण)	—	25-4-2012

इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 01/टी -24]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 25th April, 2012

S. O. 1672:—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards to the Indian Standards, particulars of which is given in the Schedule hereto annexed has been issued :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standard	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 1885(Part 51): 2012/ IEC 60050-841: 2004 Electrotechnical Vocabulary, Part 51 Industrial Electroheat (Second Revision)	—	25-4-2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET01/T-24]

R. K. TREHAN, Scientist 'E' & Head (Electrotechnical)

नई दिल्ली, 25 अप्रैल, 2012

का. आ. 1673.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह वे स्थापित हो गया है :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)

1.	आई एस 13730 (भाग 0, अनुभाग 5) : 2012/आईईसी 60317-0-5 : 2006 विशेष प्रकार की कुंडलण तारों की विशिष्टि, भाग 0 सामान्य अपेक्षाएं अनुभाग 5 कॉच तन्तु गुम्फित, रेजिन अथवा वार्निश संसेचित नंगी अथवा अनेमलित आयताकार कॉपर की तार (पहला पुनरीक्षण)		25-4-2012
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इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 33/टी-113]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 25th April, 2012

S. O. 1673.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards to the Indian Standards, particulars of which is given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standard	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 13730 (Part 0/Sec 5) : 2012/IEC 60317-0-5 : 2006 Specification for Particular Types of winding wires Part 0 General requirements, Sec 5 Glass-fibre braided, resin or varnish impregnated, Bare or enamelled Rectangular Copper wire (First Revision)	—	25-4-2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bengaluru, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET33/T-113]

R. K. TREHAN, Scientist 'E' & Head (Electro technical)

नई दिल्ली, 26 अप्रैल, 2012

का.आ. 1674.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम सं.	संशोधित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 418 : 2004	3 मार्च, 2012	26 अप्रैल, 2012

इस संशोधन की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे, तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 23/टी-72]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 26th April, 2012

S. O.1674.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 418 : 2004 Tungsten Filament Lamps for Domestic and Similar general lighting purpose	3, March 2012	26 April, 2012

Copy of this Amendment are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and its Regional Offices : Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 23/T-72]

R. K. TREHAN, Scientist 'E' & Head (Electro technical)

नई दिल्ली, 27 अप्रैल, 2012

का.आ. 1675.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि नीचे अनुसूची में जो भारतीय मानक दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15898(भाग 4): 2012/ आई एस ओ 9555-4: 1992 खुले चैनलों में द्रव प्रवाह मापन-अपरिवर्ती प्रवाह मापन की ट्रेसर डाइल्यूशन पद्धति— भाग 4 : फ्लोरीसेंट ट्रेसर	-	30-4-2012

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे, तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> पर इंटरनेट द्वारा खरीदा जा सकता है।

[संदर्भ : डब्ल्यू आर डी 1/टी-77]

जे. सी. अरोड़ा, वैज्ञा. 'एफ' एवं प्रमुख (जल संसाधन विभाग)

New Delhi, the 27th April, 2012

S. O. 1675.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No., Title and year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 15898 (Part 4): 2012 ISO 9555-4:1992 Measurement of liquid flow in open channels — Tracer dilution methods for the measurement of steady flow — Part 4 : Fluorescent tracers	—	30-4-2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram. Indian standards can be purchased from BIS sales portal <http://www.standardsbis.in>

[Ref: WRD1/T-77]

J. C. ARORA, Sc. 'F' & Head (Water Resources Deptt.)

नई दिल्ली, 27 अप्रैल, 2012

का.आ.1676.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में जो भारतीय मानक दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 6330 : 2012/ आई एस ओ 3847: 1977 वियर्स और फ्लूइड द्वारा खुले चैनलों में द्रव प्रवाह मापन मुक्त ओवरफाल वाले आयताकार चैनलों में प्रवाह आकलन की एन्डोथ पद्धति (पहला पुनरीक्षण)	आई एस 6330:1971	30-4-2012

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे, तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> पर इंटरनेट द्वारा खरीदा जा सकता है।

[संदर्भ : डब्ल्यू आर डी 1/टी-20]

जे. सी. अरोड़ा, वैज्ञा. 'एफ' एवं प्रमुख (जल संसाधन विभाग)

New Delhi, the 27th April, 2012

S. O. 1676.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No., Title and year of the Indian Standards Established	No. and Year of the Indian Standards, if any, superseded by the new Indian Standards	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 6330 : 2012 / ISO 3847:1977 Liquid flow measurement in open channels by weirs and flumes —End-depth method for estimation of flow in rectangular channels with a free overfall (first revision)	IS 6330:1971	30-4-2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram. Indian standards can be purchased from BIS sales portal <http://www.standardsbis.in>

[Ref: WRD1/T-20]

J. C. ARORA, Sc. 'F' & Head (Water Resources Deptt.)

नई दिल्ली, 3 मई, 2012

का.आ. 1677.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उप-विनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि, वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भा. मा. सं.	भाग	खण्ड	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3822764	13-4-2012	ओम शांती कंटेनर्स गट सं. 208, भाग 1, अर्नी विलेज अमलनेर रोड, जिला : धुले-424004	घूर्णनात्मक मोल्डित पॉलीथिलीन जल संग्रहण टैंकियां	12701			1996

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

डॉ. एस. एल. पालकर, निदेशक एवं प्रमुख (एमडीएम-II)

New Delhi, the 3rd May, 2012

S.O. 1677.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulation 1988, the Bureau of Indian Standards, hereby notifies the licences particulars of which are given in the following schedule have grant effect from the date indicated against each :—

SCHEDULE

Sl. No.	CML No.	GOL Date	Licensee Name and Address	IS Product	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3822764	13-4-2012	Om Shanti Containers Gat No. 208, Part-1, Arni Village, Amalner Road, Distt : Dhule- 424004	Rotational Moulded Polyethylene Water Storage Tanks.	12701			1996

[No. CMD/13:11]

Dr. S. L. PALKAR, Director and Head (MDM-II)

नई दिल्ली, 4 मई, 2012

का.आ. 1678.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उप-विनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं :—

अनुसूची

क्र. सं.	लाइसेंस संख्या सीएम/एल	लाइसेंसधारी का नाम व पता	लाइसेंस के अन्तर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
(1)	(2)	(3)	(4)	(5)
1.	0745151	झेनिथ फायर सर्विसेस (इंडिया) प्रा.लि. प्लॉट नं. ए 149/2, टीटीसी इण्ड. एरिया, एमआईडीसी, पावणे विलेज, तुर्भे - 400710	सुवाह्य अग्निशामक, शुष्क पाउडर (काट्रिज टाइप)	13-03-2012
2.	3632456	कुनाल इंजीनियरिंग वर्क्स कुनाल कंपाउण्ड, गाला सं.-1, गणेश नगर, ओल्ड बेलापुर रोड, इंडियन एल्यूमीनियम कंपनी के नजदीक विटावा, कलवा, पूर्व जिला ठाणे - 400605	शुष्क पाउडर किस्म सुवाह्य अग्नि शामक (संग्रहीत दाब)	13-03-2012
3.	3632557	कुनाल इंजीनियरिंग वर्क्स कुनाल कंपाउण्ड, गाला सं. -1, गणेश नगर, ओल्ड बेलापुर रोड, इंडियन एल्यूमीनियम कंपनी के नजदीक विटावा, कलवा, पूर्व जिला ठाणे - 400605	सुवाह्य अग्नि शामक यांत्रिक झाग किस्म	13-03-2012
4.	3635462	कोनवुड प्री-फॉब लि. कोनवुड हाऊस, यशोधाम जनरल ए. के. वाडिया मार्ग, गोरेगांव (पू), मुंबई- 400063	खड्गे के लिए पूर्व ढलित कंक्रीट ब्लॉक	7-02-2012
5.	3684071	पद्मा इण्डस्ट्रीज, प्लॉट सं. 390-बी, दिनकर पाडा, कोंडले रोड, कुडुस, वाडा, जिला ठाणे - 421312	शुष्क पाउडर किस्म सुवाह्य अग्नि शामक (संग्रहीत दाब)	13-03-2012

(1)	(2)	(3)	(4)	(5)
6.	3696785	मिदास सेण्टी प्रा. लि. ई-15, न्यू इंजीनियरिंग जोन, एमआईडीसी, तलोजा, जिला : रायगढ़ - 410208	औद्योगिक सुरक्षा हेलमेट	20-1-2012
7.	7105150	लक्ष्मी फॅब्रीकेटर्स यूनिट नं.15-एफ, कुर्ला इण्ड. इस्टेट, एनएसएस रोड, घाटकोपर (पश्चिम), मुंबई -400086	सुवाह्य अग्निशामक शुष्क पाउडर (सतत दाब)	13-03-2012
8.	7153060	नितिन फायर प्रोटेक्शन, ए-117, टी. टी.सी इण्ड. एरिया, खैरना विलेज, नवी मुंबई -400701	शुष्क पाउडर किस्म सुवाह्य अग्नि शामक (संग्रहीत दाब)	13-03-2012
9.	7213759	लक्ष्मी फॅब्रीकेटर्स यूनिट नं.15-एफ, कुर्ला इण्ड. इस्टेट, एनएसएस रोड, घाटकोपर (पश्चिम), मुंबई -400086	सुवाह्य अग्नि शामक यांत्रिक झाग किस्म	13-03-2012
10.	7271470	एवरेक्स (फायर प्रोटेक्शन) इण्डस्ट्रीज यूनिट नं.18-शरद इण्डस्ट्रियल इस्टेट, लेक रोड, भांडूप (पश्चिम), मुंबई -400078	सुवाह्य अग्नि शामक यांत्रिक झाग किस्म	13-03-2012
11.	7285077	अजय इण्डस्ट्रीज ओसरगाव, निअर लेक मुंबई-गोवा रोड, तालुका : कनकवली, जिला : सिंधुदुर्ग 416602	सुवाह्य अग्नि शामक यांत्रिक झाग किस्म	9-02-2012
12.	7285178	अजय इण्डस्ट्रीज ओसरगाव, निअर लेक मुंबई-गोवा रोड, तालुका : कनकवली, जिला : सिंधुदुर्ग 416602	सुवाह्य अग्निशामक, शुष्क पाउडर (कार्बोन्स टाइप)	9-02-2012
13.	7285279	अजय इण्डस्ट्रीज ओसरगाव, निअर लेक मुंबई-गोवा रोड, तालुका : कनकवली, जिला : सिंधुदुर्ग 416602	सुवाह्य अग्निशामक, शुष्क पाउडर (सतत दाब)	9-02-2012
14.	7311254	रिलायबल फायर इंजिनियर्स गाला सं. 10, पद्मावती इण्ड. कॉम्प्लेक्स गणपति पाडा, दिघा, इनदल कॉलोनी के नजदीक, कासला सिटी, जिला : धार - 400605	सुवाह्य अग्नि शामक यांत्रिक झाग किस्म	13-03-2012
15.	7328574	मधनी फॅब्रीकेटर्स यूनिट नं.15-एफ, कुर्ला इण्ड. इस्टेट, एनएसएस रोड, घाटकोपर (पश्चिम)-मुंबई -400086	शुष्क पाउडर किस्म सुवाह्य अग्नि शामक (संग्रहीत दाब)	13-03-2012
16.	7331361	फायर स्टोन इण्डस्ट्रीज यूनिट नं.15-अदित्य इण्ड. इस्टेट, देवरुखकर वाडी, विंचोल बंदर रोड, मालाड (पश्चिम)-400064	सुवाह्य अग्निशामक शुष्क पाउडर (कार्बोन्स टाइप)	09-02-2012

(1)	(2)	(3)	(4)	(5)
17.	7331462	फायर स्टोन इण्डस्ट्रिज युनिट नं.15, आदित्य इण्ड. इस्टेट, देवरूखकर वाडी, चिंचोली बंदर रोड, मालाड (पश्चिम), 400064	सुवाह्य अग्निशामक, शुष्क पावडर (सतत दाब)	09-02-2012
18.	7331563	फायर स्टोन इण्डस्ट्रिज युनिट नं.15, आदित्य इण्ड. इस्टेट, देवरूखकर वाडी, चिंचोली बंदर रोड, मालाड (पश्चिम), 400064	सुवाह्य अग्निशामक यांत्रिक झाग किस्म	09-02-2012
19.	7372476	न्यु इंजिनियरिंग कारपोरेशन 126, शांती इण्ड. इस्टेट, सरोजिनी नायडू रोड, मुलुंड (पश्चिम)-400086	शुष्क पावडर किस्म सुवाह्य अग्निशामक (संग्रहित दाब)	13-03-2012
20.	7392987	नाझ इंजिनियरिंग वर्क्स 8, 9 और 10, क्रिस्टल इण्ड. प्रिमाइसेस को-ऑप सोसायटी लि. आर सी लायलका स्ट्रीट, खैरानी रोड, साकोरवाडा, अंधेरी-400072	शुष्क पावडर किस्म सुवाह्य अग्निशामक (संग्रहित दाब)	13-03-2012
21.	7394385	अल-अझोझ प्लास्टिक्स प्रा. लि. प्लॉट नं. 5-14, अच्छाड इण्डस्ट्रियल इस्टेट, अच्छाड तालासरी, जिला : थाणे-401606	दृढ़ नॉन-मेटालिक नलिकाओं के लिए फिटिंग्स	10-10-2011
22.	7397290	रिलायबल फायर इंजिनियर्स गाला सं. 10, पद्मावती इण्ड. कॉम्प्लेक्स गणपति पाडा, दिघा, इन्दर कॉलोनी के नजदीक, कलवा सिटी, जिला : थाणे-400605	शुष्क पावडर किस्म सुवाह्य अग्निशामक (संग्रहित दाब)	13-03-2012
23.	7397795	न्यु इंजिनियरिंग कारपोरेशन 126, शांती इण्ड. इस्टेट, सरोजिनी नायडू रोड, मुलुंड (पश्चिम)-400086	सुवाह्य अग्निशामक, शुष्क पावडर (काट्रिज टाइप)	13-03-2012
24.	7397896	न्यु इंजिनियरिंग कारपोरेशन 126, शांती इण्ड. इस्टेट, सरोजिनी नायडू रोड, मुलुंड (पश्चिम)-400086	सुवाह्य अग्निशामक, शुष्क पावडर (सतत दाब)	13-03-2012
25.	7401154	युरो डेकोर प्रा. लि. सर्वे नं. 265/9/1, 265/8/3, विलेज दादरा, सिलवासा, जिला : दादरा और नगर हवेली - 396191	लकड़ी उत्पाद- प्रीलैमिनेटिड पार्टिकल बोर्ड्स -विशिष्ट	17-11-2011
26.	7401255	फायर स्टोन इण्डस्ट्रिज युनिट नं.15, आदित्य इण्ड. इस्टेट, देवरूखकर वाडी, चिंचोली बंदर रोड, मालाड (पश्चिम)- 400064	शुष्क पावडर किस्म सुवाह्य अग्निशामक (संग्रहित दाब)	09-02-2012
27.	7402459	न्यु इंजिनियरिंग कारपोरेशन 126, शांती इण्ड. इस्टेट, सरोजिनी नायडू रोड, मुलुंड (पश्चिम)-400086	सुवाह्य अग्निशामक, यांत्रिक झाग किस्म	12-03-2012

(1)	(2)	(3)	(4)	(5)
28.	7421766	एवरेक्स (फायर प्रोटेक्शन) इण्डस्ट्रिज युनिट नं.18, शरद इण्डस्ट्रियल इस्टेट, लेक रोड, भांडूप (पश्चिम)-400078	शुष्क पावडर किस्म सुवाहय अग्निशामक (संग्रहित दाब)	13-03-2012
29.	7423366	अजय इण्डस्ट्रिज ओसरगाव, निअर लेक मुंबई-गोवा रोड, तालुका : कनकवली, जिला : सिंधुदुर्ग- 416602	शुष्क पावडर किस्म सुवाहय अग्निशामक (संग्रहित दाब)	9-02-2012
30.	7471882	युरो डेकोर प्रा. लि. सर्वे नं. 265/9/1, 265/8/3, देमनी रोड, विलेज दादरा, सिलवासा, जिला : दादरा और नगर हवेली - 396191	पर्व लोहित मध्यम घनत्व, फायर बोर्ड	17-11-2011
31.	7520465	रोनक फायर इण्डस्ट्रिज गाला सं. 25, 26, 27, 28, शैलाश इण्ड. इस्टेट, नं. 2 नवघर रोड, वसई (पूर्व) जिला : थाणे- 401210	शुष्क पावडर किस्म सुवाहय अग्निशामक (संग्रहित दाब)	13-03-2012
32.	7533272	श्रीजी सेफ्टाइम अप्लायसेंस प्रा.लि. प्लॉट नं. 48, सर्वे नं. 66, वालीव फाटा, वसई रोड (पूर्व), जिला: थाणे- 401208	शुष्क पावडर किस्म सुवाहय अग्निशामक (संग्रहित दाब)	13-03-2012
33.	7538383	चंद्रकांत एण्ड कंपनी 89, युनिक इण्डस्ट्रियल इस्टेट, दूसरी मंजिल, डॉ. आर. पी. रोड, मुलुंड (पश्चिम) -400080	सुवाहय अग्निशामक, शुष्क पावडर (कार्ट्रिज टाइप)	13-03-2012
34.	7560679	जीओ फायर रेमिडिस प्रा. लि. प्लॉट नं. एल-94, एमआईडीसी, तालोजा, नवी मुंबई -410208	शुष्क पावडर किस्म सुवाहय अग्निशामक (संग्रहित दाब)	13-03-2012
35.	756187	जीओ फायर रेमिडिस प्रा. लि. प्लॉट नं. एल-94, एमआईडीसी, तालोजा, नवी मुंबई -410208	सुवाहय अग्निशामक यांत्रिक झाग किस्म	13-03-2012

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

डॉ. एस. एल. पालकर, निदेशक एवं प्रमुख (एम डी एम-II)

New Delhi, the 4th May, 2012

S.O. 1678.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have been cancelled with effect from the date indicated against each :—

SCHEDULE

Sl. No.	Licences No. CM/L No.	Name and Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled/suspension	Date of Cancellation
(1)	(2)	(3)	(4)	(5)
1.	0745151	Zenith Fire Services (India) Pvt. Ltd. Plot No. 149/2, TTC Indl. Area, MIDC, Pawne Village, Turbhe -400710	Portable Fire Extinguishers, Dry Powder (Cartridge Type)	13-3-2012

(1)	(2)	(3)	(4)	(5)
2.	3632456	Krunal Engineering Works Krunal Compound, Gala No.1, Ganesh Nagar, Old Belapur, Road, Near Indian Aluminium Company, Vitawa, Kalwa (E), Distt. : Thane-400605	Portable Fire Extinguisher, Dry Powder Type (Constant Pressure)	13-3-2012
3.	3632557	Krunal Engineering Works Krunal Compound, Gala No.1, Ganesh Nagar, Old Belapur Road, Near Indian Aluminium Company, Vitawa, Kalwa (E), Distt. : Thane-400605	Portable Fire Extinguisher, Mechanical Foam Type	13-3-2012
4.	3635462	Conwood Pre-Fab Ltd. Conwood House, Yashodham, General A. K. Vaidya Marg, Goregaon (East), Mumbai- 400063	Precast Concrete Blocks for Paving	7-2-2012
5.	3684071	Padma Industries Plot No. 390 B, Dinkar Pada, Kondle Road, Kudus, Wada, Distt. : Thane-421312	Portable Fire Extinguisher, Dry Powder Type (Constant Pressure)	13-3-2012
6.	3696785	Midas Safety Pvt. Ltd. E-15, New Engineering Zone, MIDC, Talaja, Distt. : Raigarh-410208	Industrial Safety Helmets	20-1-2012
7.	7105150	Laxmi Fabricators Unit No. 15-F, Kurla Indl. Estate, NSS Road, Ghatkopar (W), Mumbai-400086	Portable Fire Extinguisher, Water Type (Gas Cartridge)	13-3-2012
8.	7153060	Nitin Fire Protection A-117, T.T.C. Indl. Area, Khairna Village, Navi Mumbai-400701	Portable Fire Extinguisher, Dry Powder Type (Constant Pressure)	13-3-2012
9.	7213759	Laxmi Fabricators Unit No.15-F, Kurla Industrial Estate, NSS Road, Ghatkopar (W), Mumbai-400086	Portable Fire Extinguisher, Mechanical Foam Type	13-3-2012
10.	7271470	Everex (Fire Protection) Industries Unit No. 18, Sharad Industrial Estate, Lake Road Bhandup (W) - 400078	Portable Fire Extinguisher, Mechanical Foam Type	13-3-2012
11.	7285077	Ajay Industries Osargaon, Near Lake, Mumbai-Goa Road, Tal : Talasari, Distt. : Sindhudurg - 416602	Portable Fire Extinguisher, Mechanical Foam Type	9-2-2012
12.	7285178	Ajay Industries Osargaon, Near Lake, Mumbai-Goa Road, Tal : Kankavli, Distt. : Sindhudurg - 416602	Portable Fire Extinguishers, Dry Powder (Cartridge Type)	9-2-2012

13.	7285279	Ajay Industries , Osargaon, Near Lake, Mumbai-Goa Road, Tal : Kankavli, Distt.: Sindhudurg - 416602	Portable Fire Extinguisher, Water Type (Gas Cartridge) -	9-2-2012
14.	7311254	Reliable Fire Engineers Gala No. 10, Padmavati Indl. Complex Ganpati Pada Digha, NR Indal Col, Kalva City Distt. -Thane - 400605	Portable Fire Extinguisher, Mechanical Foam Type	13-3-2012
15.	7328574	Laxmi Fabricators Unit No. 15-F, Kuria Indl. Estate, NSS Road, Ghatkopar (W), Mumbai-400086	Portable Fire Extinguisher, Dry Powder Type (Constant Pressure)	13-3-2012
16.	7331361	Fire Stone Industries Unit No. 15, Aditya Indl. Estate, Devrukhkar Wadi, Chincholi Bunder Road, Malad West- 400064	Portable Fire Extinguishers, Dry Powder (Cartridge Type)	9-2-2012
17.	7331462	Fire Stone Industries Unit No. 15, Aditya Indl. Estate, Devrukhkar Wadi, Chincholi Bunder Road, Malad West- 400064	Portable Fire Extinguisher, Water Type (Gas Cartridge)—	9-2-2012
18.	7331563	Fire Stone Industries Unit No. 15, Aditya Indl. Estate, Devrukhkar Wadi, Chincholi Bunder Road, Malad West- 400064	Portable Fire Extinguishers, Mechanical Foam Type	9-2-2012
19.	7372476	New Engineering Corporation 126, Shanti Indl. Estate, Sarojini Naidu Road, Mulund (W)-400086	Portable Fire Extinguisher Dry Powder Type (Constant Pressure)	13-3-2012
20.	7392987	Naaz Engineering Works 8, 9, and 10 Crescent Indl. Premises Co-op. Society Ltd., R C Loyalka Street, Kherani Road, Saki Naka, Andheri - 400072	Portable Fire Extinguisher Dry Powder Type (Constant Pressure)	13-3-2012
21.	7394385	AL-Aziz Plastics Pvt. Ltd. Plot No 5-14, Acchhad Industrial Estate, Acchhad, Talasari, Distt.- Thane-401606	Fittings for Rigid Non- Metallic Conduits	10-10-2011
22.	7397290	Reliable Fire Engineers Gala No. 10, Padmavati Indl. Complex Ganpati Pada Digha, Nr Indal Col., Kalva City Distt. -Thane - 401605	Portable Fire Extinguisher Dry Powder Type (Constant Pressure)	13-3-2012
23.	7397795	New Engineering Corporation 126, Shanti Indl. Estate, Sarojini Naidu Road, Mulund (W)-400086	Portable Fire Extinguishers, Dry Powder (Cartridge Type)	13-3-2012
24.	7397896	New Engineering Corporation 126, Shanti Indl. Estate, Sarojini Naidu Road, Mulund (W)-400086	Portable Fire Extinguisher Water Type (Gas Cartridge)-	13-3-2012

(1)	(2)	(3)	(4)	(5)
25.	7401154	Euro Decor Pvt. Ltd. Survey No. 265/9/1, 265/8/3, Village Dadra, Silvassa, Distt. -Dadra And Nagar Haveli-396191	Wood Products- Prelaminated Particle Boards-	17-11-2011
26.	7401255	Fire Stone Industries Unit No. 15, Aditya Indl. Estate, Devrukhkar Wadi, Chincholi Bunder Road, Malad West- 400064	Portable Fire Extinguishers Dry Powder Type (Constant Pressure)	9-2-2012
27.	7402459	New Engineering Corporation 126, Shanti Indl. Estate, Sarojini Naidu Road, Mulund (W)-400086	Portable Fire Extinguisher Mechanical Foam Type	12-3-2012
28.	7421766	Everex (Fire Protection) Industries Unit No. 18, Sharad Industrial Estate, Lake Road, Bhandup (W)- 400078	Portable Fire Extinguishers Dry Powder Type (Constant Pressure)	13-3-2012
29.	7423366	Ajay Industries Osargaon, Near Lake, Mumbai-Goa Road, Tal : Kankavli, Distt: Sindhudurg - 416602	Portable Fire Extinguisher Dry Powder Type (Constant Pressure)	9-2-2012
30.	7471882	Euro Decor Pvt. Ltd. Survey No. 265/9/1, 265/8/3, Demni Road, Village Dadra, Silvassa, Distt - Dadra And Nagar Haveli-396191	Prelaminated Medium Density Fibre Board	17-11-2012
31.	7520465	Ronak Fire Industries Gala No : 25, 26, 27, 28 Shailash Indl. Estate, No :2 Navghar Road, Vasai (E) Distt.- Thane - 401210	Portable Fire Extinguisher Dry Powder Type (Constant Pressure)	13-3-2012
32.	7533272	Shreeji Safetime Appliances Pvt.Ltd. Plot No. 48, Survey No. 66, Waliv Phata, Vasai Road (East), Distt. Thane - 401208	Portable Fire Extinguisher Dry Powder Type (Constant Pressure)	13-3-2012
33.	7538383	Chandrakant & Company 89, Unique Industrial Estate, II Floor, Dr. R.P. Road, Mulund (W)- 400080	Portable Fire Extinguishers Dry Powder Type (Cartridge Type)	13-3-2012
34.	7560679	Geo Fire Remedies Pvt. Ltd., Plot No. L-94 Midc. Taloja, Navi Mumbai- 410208	Portable Fire Extinguisher Dry Powder Type (Constant Pressure)	13-3-2012
35.	7556187	Geo Fire Remedies Pvt. Ltd., Plot No. L-94 Midc. Taloja, Navi Mumbai- 410208	Portable Fire Extinguisher Mechanical Foam Type	13-3-2012

[No. CMD/13:11]

Dr. S. L. PALKAR, Director and Head (MDM-II)

नई दिल्ली, 7 मई, 2012

का.आ. 1679.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 13510 : 2000 वस्त्रादि पोलिएस्टर /रूई मिश्रित रिप स्टाप डक विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या 2 अप्रैल 2012	30 अप्रैल, 2012

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलुरु, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे, तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : टीएक्सडी/जी-25]

अनिल कुमार, वैज्ञानिक 'ई' एवं प्रमुख (टीएक्सडी)

New Delhi, the 7th May, 2012

S. O. 1679.—in pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. , Title and Year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 13510:2000 Textiles-duck, polyester/cotton blended, rip-stop-specification	Amendment No. 2 April 2012	30 April 2012

Copy of this Amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and its Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: TXD/G- 25]

ANIL KUMAR, Scientist 'E' & Head (TXD)

नई दिल्ली, 7 मई, 2012

का. आ. 1680.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 7702: 2012 वस्त्रादि - वस्त्रादि एवं वस्त्रादि उत्पादों की मोटाई ज्ञात करना (पहला पुनरीक्षण)	—	31-3-2012

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा राष्ट्रीय कार्यालयों : अहमदाबाद, बंगलूर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर पटना, पूणे तथा त्रिवन्थपुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : टी एक्स डी/जी-25]

अनिल कुमार, वैज्ञानिक 'ई', एवं प्रमुख (टीएक्सडी)

New Delhi, the 7th May, 2012

S. O. 1680.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No., Title and Year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 7702 : 2012/ISO 5084:1996 Textiles -Determination of Thickness of Textiles and Textile Products (First Revision)	—	March 2012

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bengalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: TXD/G-25]

ANIL KUMAR, Scientist 'E' & Head (TXD)

नई दिल्ली, 7 मई, 2012

का.आ. 1681.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि, सीएम/एल	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	आ. मा. भाग	अनु.	वर्ष	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	L-9927913	3-4-2012	मै. फालकन फायरमैटिक्स प्रा. लि., 397, पेस सिटी-II, सैक्टर -37, जिला गुडगाँव-122001, (हरियाणा)	अग्नि होज प्रदाय युगमन शाखा पाईप नोजल और नोजल पाने	903	-	-	1993
2.	L-9928006	3-4-2012	मै. फालकन फायरमैटिक्स प्रा. लि., 397, पेस सिटी-II, सैक्टर-37, जिला गुडगाँव-122001, (हरियाणा)	लैडिंग जाल्व	5290	-	-	1993
3.	L-9928208	4-4-2012	मै. माइनिंग इक्विपमेन्ट कॉर्पोरेशन, 430/7 एफ, कादीपुर इण्डस्ट्रीयल एरिया, सैक्टर -10 के सामने, जिला गुडगाँव-122001, (हरियाणा)	विस्फोटो पर्यावरण भाग 1 ज्वालासह आवरण "d" द्वारा उपकरण संरक्षण	60079-1	-	-	2007

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
4.	L-9929008	18-4-2012	मै. नोरिसिस टेक्नोलॉजी लि. 14/3, मथुरा रोड, जिला फरीदाबाद-121003, (हरियाणा)	घरेलू और समान कार्यों के लिए स्विच	3854	—	—	1997
5.	L-9930696	23-4-2012	मै. नोरिसिस टेक्नोलॉजी लि. 14/3, मथुरा रोड, जिला फरीदाबाद-121003, (हरियाणा)	250 वोल्ट तक की रेटित वोल्टता वाले और 16 एम्पीयर तक की रेटित करंट वाले प्लग और सॉकेट निकास	1293	—	—	2005

[सं.: सीएमडी/13:11]

एम. सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख (एफडीओ)

New Delhi, the 7th May, 2012

S.O. 1681.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licences No.CM/L	Grant Date	Name and Address of the Licensee	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	L-9927913	3-4-2012	M/s. Falcon Firematics Pvt. Ltd., 397, Pace City-II, Sector - 37, Distt. Gurgaon -122001, (Haryana)	Fire Hose Delivery Delivery Couplings, Branch Pipe, Nozzles and Nozzle Spanner	903	—	—	1993
2.	L-9928006	3-4-2012	M/s. Falcon Firematics Pvt. Ltd., 397, Pace City-II, Sector - 37, Distt. Gurgaon -122001, (Haryana)	Landing Valve	5290	—	—	1993
3.	L-9928208	4-4-2012	M/s. Mining Equipment Corporation, 430/7F, Kadipur Industrial Area, Opp. Sector-10, Distt. Gurgaon -122001, (Haryana)	Explosive Atmos- pheres-Part 1 Equip- ment Protection by Flameproof Enclosures "d"	60079-1	—	—	2007
4.	L-9929008	18-4-2012	M/s.Norisys Technology Ltd., 14/3, Mathura Road Distt. Faridabad -121003, (Haryana)	Switches for Do- mestic and Similar Purposes	3854	—	—	1997
5.	L-9930696	23-4-2012	M/s.Norisys Technology Ltd., 14/3, Mathura Road, Distt. Faridabad -121003, (Haryana)	Plug and Socket Outlets of rated voltage up to and including 16 amperes	1293	—	—	2005

[No. CMD/13:11]

M. SADASIVAM, Scientist 'F' and Head (FDO)

श्रम और रोजगार मंत्रालय

नई दिल्ली, 16 अप्रैल, 2012

का.आ. 1682.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार असिस्टेंट डायरेक्टर, सैन्ट्रल सिल्क (टसर) बोर्ड एण्ड ट्रेनिंग सेंटर के प्रबंधकों के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचट (संदर्भ संख्या सी.जी.आई.टी./एन.जी.पी./35/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2012 को प्राप्त हुआ था।

[सं. एल-42012/188/1998-आईआर (डी.यू.)]
जोहन तोपनो, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 16th April, 2012

S.O. 1682.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref No. CGIT/NGP/35/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the Assistant Director, Central Silk (Tasar) Board and Training Centre Bhandara And Others and their workman, which was received by the Central Government on 16-4-2012.

[No. L-42012/188/1998-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR**
Case No. CGIT/NGP/35/2009 Date : 19-3-2012

Respondents :

- (1) The Union of India,
Through its Secretary, Ministry of Textile,
New Delhi -01
- (2) The Asst. Director, Central Silk (Tasar)
Board and Training Centre at Dawadipur
(Bazar), The and Distt. Bhandara - 441904.
- (3) The Member Secretary, Central Silk (Tasar)
Board and Training Centre, CSB Complex, BTM
Layout, Madiwala, Bangalore.

Versus**Applicants :**

- (1) Shri Prabhu Sadashiv Chawhan,
- (2) Shri Vinayak S/o Sadashiv Chawhan,
- (3) Shri Nilkanth S/o Bapunaji Chawhan,
- (4) Shri Pradeep S/o Govinda Meshram,
Uttam S/o Raibhan Chawhan,
P.O. At Garada (Buj), Post : Manegaon
(Bazar), The and Distt. Bhandara-441904.

AWARD

(Dated : 19th March, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Central Silk Board and their four workmen Shri Prabhu Sadashiv Chawhan, Shri Vinayak Sadashiv Chawhan, Shri Nilkanth Bapunaji Chawhan, Shri Pradeep Raibhan Chawhan for adjudication, as per letter No. L-42012/188/98-IR (DU) dated 15-10-2009, with the following schedule :—

"Whether the action of the management of Central Silk (Tasar) Board and Training Centre in terminating the services of Prabhu Sadashiv Chawhan Shri Vinayak, Shri Nilkanth Bapunaji Chawhan, Shri Pradeep and Shri Uttam w.e.f. 27-10-1997 is legal and justified? If not, to what relief the workmen are entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the Five applicants named above ("the applicants" in short), filed the statement of claim and the respondents filed their written statement.

The case of the applicants as projected in the statement of claim is that as their services were terminated by the respondents on 27-10-1997 illegally, they raised a dispute before the Asst. Labour Commissioner (Central), Nagpur ("the ALC" in short) and as the conciliation before the ALC failed, a failure report was submitted to the Central Government dated 1-9-1998 by the ALC, but the Central Government, Ministry of Labour refused to make any reference and being aggrieved by such refusal, they approached the Hon'ble High Court, Nagpur Bench in writ petition no. 1835/99 and the Hon'ble High Court was pleased to direct the Central Government to make the reference to the CGIT and accordingly, the reference was made.

The further case of the applicants is that respondent no. 3, i.e. the Central Silk (Tasar) Board and Training Centre was established in the year 1982 and the function and object of the said Board was production of basic Tasar Silk worm seeds, production of seed cocoons by conducting the rearings of Tasar Silk worms, raising and maintenance of eco plantation of Tasar food plants and training to the farmers/rearers and more than hundred employees were working with the respondents and the respondents are industry and they were appointed as mazdoor on daily wages in the year 1982 by respondent no.3 and they were being paid at the rate of Rs. 4.50 per day in 1982, Rs. 6.00 per day in 1983, Rs. 7.00 per day in 1984, Rs. 8.50 per day in 1987, Rs. 14.00 per day in 1988, Rs. 33.93 per day in 1992 and Rs. 62 per day in 1997 as

wages and they performed the unskilled job as mazdoors for 10 months and 11 months in 1982 and 1983 respectively and from the year 1984 to 1997, they worked for the entire 12 months in each year and they had completed more than 240 days of work in every calendar year since 1982 till their illegal termination in 1997 and they were being paid their wages weekly or fortnightly or sometimes monthly, but pay slips were not supplied to them and they were also paid Rs. 25 per month from 1992, for availing medical facility and while they were working as mazdoors, they come to know that the respondents, without considering the seniority list maintained by them, had started to regularize the services of other employees, who were juniors to them and to know their position in the seniority list and the number of their working days, they asked the respondent no.3 to supply the copies of the salary slips, attendance register and seniority list and also put forth their grievances to the respondents for regularization orally as well as in writing, but without supplying such information, the respondent terminated their services on 27-10-1997, without giving any notice or wages in lieu of such notice and such termination was against the provisions of Sections 25-F and 25-G of the Act and the same is required to be quashed and set aside.

The applicants have also pleaded that the party no.1 regularised the services of Shri Hari Sidam, Shri Gangaram Sayam, Shri Baburao Sidam, Shri Mohan Harwar, Shri Govinda Gadhve, Shri Byalrao Meshram and Shri Premdas Kanekar, who were juniors to them by neglecting their claim and after termination of their services, they are not gainfully employed.

The applicants have prayed to declare the order of termination of their services dated 27-10-1997 to be void and illegal and to quash and set aside the same and to reinstate them in service with continuity and full back wages.

3. The respondents in their written statement have pleaded inter-alia that the work of the training centre is of purely seasonal nature, which ranges during the month of July to December only and except the said period, rest of the period/Weather/Climate conditions of the year is not suitable for the activities of silk worm and silk worm rearing is done during specific climatic period only and the work is to be completed by engaging as many daily wages workers during the period from July to December and to carryout the above seasonal work, the applicants were engaged on purely temporary basis as daily wagers during the years 1984 to 1997 along with others and they did not work for 240 days in each calendar year, as the seasonal work never lasted continuously for 240 days and whenever the seasonal work was being completed, the services of the applicants were automatically coming to an end and as such, provisions of Section 2 (oo) (bb) of the Act are attracted in the present case and in such circumstances, it does not amount to retrenchment as defined u/s 2(oo) of

the Act and there was no necessity to comply the provisions of Section 25-F and 25-G of the Act. It is also pleaded by the respondents that the applicants were not engaged on permanent post nor through any recruitment process and no post for daily wages are authorized in the establishment of respondent no.3 and there is no question of regularization of the services of the applicants.

It is further pleaded by the respondents that the Board is a department of Govt. of India and it is discharging its sovereign function and the applicants were not in their employment in the years 1982 and 1983 and as such, there is no question of paying wages to them in the years 1982 and 1983 and as the payment of the applicants from 1984 to 1997 used to be made on daily wages basis, there was no question of issuing pay slips, because they were not engaged on permanent post/vacancy and medical allowance of Rs. 25 was paid to daily wagers upto 31-7-1995 and thereafter, the payment of the said allowance was stopped and the details of the engagement of the applicants during the year 1984 to 1997 on daily wages on seasonal activity in the centre of respondent no. 3 are available and such details are filed with the reply and Hari Sidam was working as Time Scale Farm worker, since the year 1992, but he expired on 20-5-2002, Baburao Sidam was also working as Time Scale Farm worker and he retired on 30-6-2009, Mohan Hatwar is Chowkidar on permanent post and he has been transferred to RTRS at Bhandara, Govinda Gadhve was also Time Scale Farm worker since 1992 and he retired from service on 7-6-2007, Davalrao Meshram is working in the post of Safaiwala and Premdas Kanekar was also Time Scale Farm worker w.e.f. 1992 and retired on 22-10-2002 and the applicants are not entitled to any relief.

4. Both the parties have led oral evidence, besides placing reliance on documentary evidence, to prove their respective stand. The applicant, Shri Prabhu Sadashiv Chawhan has been examined as a witness on behalf of the applicants, where as, Dr. Ashok Kumar Bansal, a scientist 'C' has been examined as a witness on behalf of the respondents. The examination-in-chief of the respective witness of the parties are on affidavit and they have reiterated the facts mentioned in the statement of claim and written statement respectively in their evidence.

However, the applicant, Shri Prabhu in his cross-examination has admitted that the document, Exh. W - V shows that he worked for 50 days and 90 days from 1-1-1996 to 31-12-1996 and 1-1-1997 to 31-12-1997 respectively and applicant, Uttam Chawhan did not work at all in 1996 and worked for 102.5 days from 1-1-1997 to 31-12-1997. He has further admitted that Ext. W - V shows that applicant, Vinayak Chawhan worked for 49.5 days and 108 days from 1-1-1996 to 31-12-1996 and 1-1-1997 to 31-12-1997 respectively, Nilakantha Chawhan worked for 48 days and 104.5 days from 1-1-1996 to 31-12-1996 and 1-1-1997 to 31-12-1997 respectively and they did not

challenge the correctness of Ext. W-V at any point of time. The applicant in his cross-examination has further admitted that no appointment letter was given for their engagement and they were working only daily wages basis and there was never any interview for their engagement and they have no document to show that they started working from 1982 and after October, 1997, they did not report at the training centre.

Though the witness for the respondents has been cross-examined at length, nothing of substance has been brought out to disbelieve his evidence.

5. In this case, it is admitted by the parties that the applicants were engaged by respondents no.3 on daily wages basis. According to the applicants, they had worked for 240 days and more in every calendar year from 1982 to 27-10-1997. However, the respondents have denied the same. According to the respondents, the applicants were engaged from the year 1984 and they had not completed 240 days of work in any year or the proceeding 12 calendar months of the alleged date to termination.

6. In view of the stands taken by the parties, I think it apt to mention the principles enunciated by the Hon'ble Apex Court in this regard, before embarking upon the discussion of the merit of the case.

The Hon'ble Apex court, in the decision reported in AIR 1966 SC-75 (Employees, Digawadih Colliery Vs. Their workmen) have held that :—

“Though Section 25-F speaks of continuous service for not less than one year under the employer, if the workman has actually worked for 240 days during a period of 12 calendar months both the conditions are fulfilled. The definition of Continuous Service” need not be read into Section 25-B. The action converts service of 240 days in a period of twelve calendar months into continuous service for one complete year. The amended Section 25-B only consolidates the provisions of Section 25(B) and 2(eee) in one place, adding some other matters. The purport of the new provisions, however, is not different. In fact, the amendment of Section 25-F of the principal Act by substituting in clause (b) the words “for every completed year of continuous service” has removed a discordance between the unamended Section 25B and the unamended Cl. (b) of Section 25-F. No uninterrupted service is necessary if the total service is 240 days in a period of twelve calendar months either before the several changes or after these. The only change in the Act is that this service must be during a period of twelve calendar months preceding the date with reference to which calculation has to be made. The last amendment has now removed a vagueness which existed in the unamended Section 25-B”.

In the decision reported in AIR 1981 SC-1253 (Mehanal Vs. M/s. Bharat Electronics Ltd.), the Hon'ble Apex Court have held that,

“Industrial Disputes Act (14 of 1947). Section 25-B (1) and (2)—Continuous service—Scope of sub-sections (1) and (2) is different, (words and phrases—Continuous Service)

Before a workman can complain of retrenchment being not in consonance with Section 25-F, he has to show that he has been in continuous service for not less than one year under that employer, who has retrenched him from service. Section 25-B as the dictionary clause for the expression “continuous”. Both in principle and are precedent it must be held that Section 25-B (2) comprehends a situation where a workman to not in employment for a period of 12 calendar months, but has rendered for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of Section 25-B and chapter V-A”.

The Hon'ble Apex Court in the decision reported in AIR 2003 SC-38 (M/s. Essen Donay Vs. Rajeev Kumar) has held that:

“Industrial Disputes Act (14 of 1947) S. 25-F, 10-Retrenchment compensation-Termination of services without payment of-Dispute referred to Tribunal-Case of workman/claimant that he had worked for 240 days in a year preceding his termination- Claim denied by management-Onus lies upon claimant to show that he had in fact worked for 240 days in a year-In absence of proof of receipt of salary workman is not sufficient evidence to prove that he had worked for 240 days in a year preceding his termination.”

So, it is clear from the principles enunciated by the Hon'ble Apex Court in the decisions mentioned above that for applicability of Section 25-F of the Act, it is necessary to prove that the workman worked for 240 days in preceding 12 calendar months commencing and counting backwards from the relevant date and the burden of such proof is upon the workman. So, keeping in view the settled principles enunciated by the Hon'ble Apex Court, now, the present case at hand is to be considered.

7. Perused the record including the pleading of the parties and evidence, both oral and documentary adduced by the parties. It is clear from the evidence on record that the applicants were engaged for the first time in 1984. The document, Ext. W-V, which is a document filed by the applicants themselves shows that none of the applicants completed 240 days of work in any year from 1984 to 31-10-1997 or in the preceding 12 months of 31-10-1997. Hence, the provisions of Section 25-F of the Act are not applicable to the case of the applicants.

8. It is also the admitted case of the parties that the applicants were engaged on daily wages basis and then engagement was not on the basis of any interview or selection as per the extant rules.

It is well settled by the Hon'ble Apex Court in a number of decisions that, "unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by a following a due to process of selection as envisaged by the relevant rules."

Applying the said principles to the present case at hand, it is also found that the applicants are not entitled to reinstatement in service. Hence, it is ordered :—

ORDER

The action of the management of Central Silk (Tasar) Board and Training Centre in terminating the services of Prabhu Sadasiv Chawhan, Shri Vinayak, Shri Nilkanth Bapanaji Chawhan, Shri Pradeep and Shri Uttam w.e.f. 27-10-1997 is legal and justified. The applicants are not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 17 अप्रैल, 2012

का.आ. 1683.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल मैनेजर, बी.एस.एन.एल., नागौर (राज.) एण्ड अदर्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 28/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 17-4-2012 को प्राप्त हुआ था।

[सं. एल-40012/73/2009-आईआर (डीयू)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 17th April, 2012

S.O. 1683.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. Case No. 28/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, BSNL, Nagaur (Raj) and Others and their workmen, which was received by the Central Government on 17-4-2012.

[No. L-40012/73/2009-IR (DU)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Presiding Officer : SHRI N. K. PUROHIT

I.D. 28/2009

Reference No. L-40012/73/2009-IR (DU) dated : 30-9-2009

Shri Manwar Hussain
S/o Shri Jahurool Hussain,
Behind Dargah Ahmed Ali Shah,
Karpura, Nagaur (Raj.)

Versus

1. The General Manager,
Telecom District, BSNL,
Nagaur (Raj.)
2. The SDO (Phones),
Bharat Sanchar Nigam Limited
Nagaur (Raj.)-341001

AWARD

29-2-2012

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 and 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial Dispute to this tribunal for adjudication :—

"Whether the action of the management of Sub Divisional Engineer (Phones), BSNL, Nagaur, in terminating the services of their workman Shri Manwar Hussain w.e.f. 1-9-2005 is legal and justified? If not, what relief the workman is entitled to?"

2. The workman in his claim statement has pleaded that he was employed by the non-applicant in the office of Telegraph, Nagaur as sweeper, farash and waterman. Though he was shown as part time worker but he used to work for 8 hours per day. The non-applicant has orally terminated his services on 1-9-05. He has further pleaded that despite he has worked continuously during period 1-2-94 to 31-8-05 and has worked for more than 240 days. his services have been terminated without any notice or compensation in lieu of notice. He has alleged that at the time of terminating his services Sh. Banwarilal and others juniors to him were retained in the job and no seniority list was prepared as per rules. He has also alleged that new hands have been recruited after his termination. Thus, non-applicant has violated the provisions of Section 25-F, G and H of the I.D. Act. He has prayed that his termination be declared illegal and he may be reinstated with all consequential benefits.

3. The non applicant in its reply while denying the claim of the workman has averred that the workman never worked under the employment of the non-applicant.

therefore, question of terminating his services on 1-9-05 does not arise. It has further been averred that the Government of India has imposed ban on appointments of daily wages or part time worker w.e.f. 31-3-85 with certain conditions. Some part time casual workers were converted into full time worker subject to fulfillment of eligibility, conditions in compliance of the order no. 3269-13/99-STN-IInd dated 25-8-2000. The workers who were regularized were working prior to 31-3-1985. The worker was not entitled to get benefit of the said order. The non-applicant has averred that the workman did not work for more than 240 days. He has also averred that provisions of I. D. Act are not applicable in his case; therefore, claim of the workman deserves to be rejected.

4. The workman in support of his claim has filed his affidavit and documents Ex. W-1 to W-43 whereas the non-applicant has filed counter affidavit of Sh. Vinod Kumar Sharma, J.T.O.(Legal) in support of its case.

5. Heard the learned representative on behalf of both the parties and perused the relevant record.

6. In view of the rival pleadings of both the sides the following questions crop up for consideration:-

- i. Whether the workman has worked as part time workman from 1-2-94 to 31-8-05 and whose services have been terminated by the non-applicant on 1-9-05 in violation of Section 25-F of the I.D. Act ?
- ii. Whether juniors to the workman were retained while terminating the services of the workman in violation of Section 25-G of the I.D. Act ?
- iii. Whether after terminating services of the workman, fresh hands were recruited by the non-applicant in violation of the provisions of Section 25-H of the I.D. Act ?
- iv. To what relief the workman is entitled to?

Point No. 1

7. The workman in his statement on affidavit has stated that he was employed as sweeper, farash and waterman on 1-2-94 in the office of Telegraph department, Nagaur and his attendance was used to be marked in attendance register. He has also stated that though he has been shown as part time worker but he used to work for 8 hours per day. The workman has further stated that despite he has worked continuously during period from 1-2-94 to 31-8-05 and has worked for more than 240 days, his services have been terminated on 1-9-05 without complying with the provisions of Section 25-F of the I.D. Act and rules 77 and 78 of the Rules.

8. The workman in support of his statement has produced copies of payment vouchers Ex. W-4 to Ex. W-15 and copies of Telecom Financial Hand Book Ex. W-32 to Ex. W-43.

9. In rebuttal, the management witness Sh. Vinod Kumar Sharma, has deposed in his affidavit that no appointment letter was ever issued to the workman and he did not work under the employment of non-applicant. The management witness has also stated that since 31-3-1985 there is ban on appointment of daily wagers and part time workers therefore, statement of the workman that he was engaged on 1-12-94 as part time worker is not correct. He has further stated that copies of the form ACJ-17 produced by the workman pertains to years 1999 and 2000 which reveal that payments were made for cleaning work and such payments were made for only three hours work.

10. The learned representative on behalf of the workman has contended that the documents Ex. W-16 and Ex. W-19 reveal that workman was working as part time worker and he was getting Rs. 2696 per month as wages. Ex. W-19 further reveals that the workman was working as part time waterman, farash and sweeper and he was performing his duties for 8 hours. Payment vouchers Ex. W-5 to Ex. W-15 and copies of the cash hand book Ex. W-32 to Ex. W-43 also support the version of the workman that he had worked for more than 240 days in a calendar year. He has also contended that the workman has discharged his initial burden to prove his case. The management has pleaded in its reply that the workman had never worked with the non-applicant but the management witness has admitted in his cross-examination that the documents Ex. 5 to Ex. 15 and Ex. 16 and Ex. 19 pertain to department. These documents reveal that the plea taken by the management is factually incorrect. It has also been contended that since management has not produced documents adverse inference should be drawn against the non-applicant. It has further been contended that even part time worker is a workman u/s 2(s) of the I.D. Act and he is entitled to protection of Section 25-F of the I.D. Act. In this regard, he has relied on 2008 AIR SCW 7325 (S.C.), 1996 (1) LLN 941 (Raj.), 1996 (74) FLR 2459 (Raj.), 1989 (59) FLR 607 (Raj.), 2007 AIR SCW 1712 (S.C.), 2005 AIR SCW 6103 (S.C.).

11. Per contra, learned representative for the management has urged that the workman has failed to prove that he has worked for 240 days or more during preceding 12 months from the date of his alleged termination. He has also urged that as per the application of the workman Ex. W-1 dated 28-4-2005, the workman was not in service on 26-4-05 therefore, contention of the workman that he had worked up to 31-8-05 and his services have been termination on 1-9-05 is not correct. Further, the workman himself has admitted that except his own applications he has not produced any other record regarding working as part time worker during years 2003, 2004 and 2005 therefore, the workman is not entitled to protection under Section 25-F of the I.D. Act.

12. I have given my thoughtful consideration on the rival submissions of both the sides and have gone

through the decisions referred to by the learned representative on behalf of the workman.

13. In decisions 1996 (974) FLR 2459, 1989 (59) FLR 607 (Raj.) and 2008 AIR SCW 7325, it has been held that an employee employed on part time basis but under control and supervision of employer is a workman and he would be entitled to benefit of protection of Section 25-F and benefit of the said section is not restricted to only full time employees. Thus, it is well settled that a part time employee is also workman within the meaning of workman under Section 2(s) of the I.D. Act.

14. In present case, the workman has produced a copy of the letter dated 12-5-99 addressed to Telecom District Manager, Nagaur regarding sending wages of the workman it has been mentioned therein that due to withdrawal of cheque from the office of Telecom payment could not be made to the workman. It is also mentioned therein that the workman was working as part time worker and he was working as part time waterman, farash and sweeper and his working hours has been shown as 8 hours and wages have been shown as Rs. 2696 for one month. The workman has also produced photocopies of the payment vouchers Ex. W-5 to Ex. W-15 for the months of July, 99 to Jan, 2000 and April, 2000 to July, 2000 as part time worker. He has also produced copies of the Finance Hand Book regarding temporary advances Ex-32 to Ex-42 which show that payments were made to the workman during said period. Ex. W-16 is letter dated 5-10-01 addressed to In-charge, DTO, Nagaur wherein information was sought regarding working of the workman as part time casual labour and his working days during preceding 12 months. The said information was sought in respect of application of the workman for his conversion from part time to full time casual labour. Ex. W1 to Ex. W-3 are applications of the workman dated 26-4-05, 25-9-2000 and 5-10-01 regarding regularization of his services as full time regular worker.

15. The management witness Sh. Vinod Kumar Sharma in his cross-examination has admitted that documents Ex. W-4 to Ex. W-15, Ex. W-32 to Ex. W-43 pertain to payments made to the workman. He has also admitted that Ex. W-16 and Ex. W-19 are documents of the department. From the said documents, it reveals that workman had worked as part time worker during period July, 1999 to January, 2000 to July, 2000 in the year 1999-2000.

16. To attract the provisions of Section 25-F of I.D. Act one of the conditions required is that the workman is employed in any industry for a continuous period which would not be less than one year.

17. The expression "continuous period" occur in Section 25-F has been defined in Section 25-B of the I.D. Act. Under sub-section (1) of the Section 25(B), if a workman has put in uninterrupted service of establishment

including the service which may interrupted on account of sickness, authorize leave, accident, a strike which is not illegal, a lock out or secession of work that is not due to any fault on the part of the workman shall be said to be in continuous service for one year i.e. 12 months in respect of number of days he has actually worked with interrupted service permissible under sub-section (1) of Section 25(B).

18. Sub-section 2 of Section 25(B) of the I.D. Act says that even if a workman has not been in continuous service for a period of one year as envisaged under sub-Section (1) of 25(B) of I.D. Act, he shall be deemed to have been in such continuous service for a period of one year if he has actually worked under the employer for 240 days in preceding period of twelve months from the date of his termination. The said sub-section provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year. In 1981 Lab IC 806 Hon'ble Apex Court has elaborated the mode to invoke the said fiction as follows :—

"In order to invoke the fiction enacted in sub-Section(2)(a), it is necessary to determine first the relevant date, i.e., the date of termination of service which is complained of a 'retrenchment'. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favour of the workman, pursuant to the deeming fiction enacted in sub-sec- 2(a), it will have to be assumed that the workman is in continuous service for a period of one year, and he will satisfy the eligibility qualification enacted in Section 25F."

19. In the background of the legal provisions and principles set out above, factual scenario in the present case is to be examined.

20. The initial burden was on the workman to prove that he had remained under the employment of the non-applicant as a workman for a continuous period of at least one year as envisaged u/s 25-F of the I.D. Act therefore, his termination without notice or compensation in lieu of notice was in violation of the said section.

21. The workman has deposed that he had worked till 31-8-2005 and his services were terminated on 1-9-05 but there is no documentary evidence on record to show that he had worked for 240 days during preceding 12 months from the date of his termination i.e. 1-9-05. The workman himself has admitted in his cross-examination that except his application, he has not produced any documents to show that he had worked during period 2003, 2004 and 2005. The application dated 26-4-05 Ex. W-1 is an admitted document of the workman. It has been mentioned in the said application that instead of

regularizing his services w.e.f. 1-7-02, his services was terminated by the management. It is an admitted fact that in the said application he was not working as part time worker on 26-5-05. Thus, it is evident from the document of the workman that he had not worked for at least 240 days during the preceding 12 months from the date of his termination i.e. 1-9-05.

22. The facts of the case laws referred on behalf of the workman are quite distinguishable. In 1996 (I) LLN 941, the Labour Court recorded its finding that workmen were in continuous service for the year 1978 to 1985, as such, their case falls in clause (1) of section 25B and they are entitled to be dealt with under the provisions of section 25-F of the Act. In view of above, Hon'ble Court held that the fact that the workman did not actually work for 240 days in all the years including last year of their service would not make any difference for attracting the provisions of section 25-F of the I.D. Act. But in present case workman has failed to prove that he had worked continuously and uninterruptedly for a period of one year as envisaged u/s sub-section (i) of section 25(B) of the I.D. Act. In 2007 AIR SCW 1712, the matter was pertaining to section 2(g) of U.P. Industrial Disputes Act. While considering the definition of continuous service u/s 2(g) of the Act and section 25B of the I.D. Act Hon'ble Apex Court held that the exclusion of the word "preceding" from Section 2(g) of the U.P. Act indicates that a workman in order to be in continuous service may have worked continuously for a period of 240 days in any calendar year during his period of service. It flows from the said decision that u/s 25B (2) to attract the provision of section 25-F it is essential that a workman in order to be in continuous service may have at least worked for 240 days during preceding 12 months from the date of his termination.

23. In instant case, the workman has failed to establish that he has worked for a period of 240 days in preceding 12 months from the date of his termination i.e. 1-9-2005.

24. The learned representative on behalf of the workman contends that the workman has discharged his initial burden, therefore, burden was shifted on the management to disprove the claim of the workman. The management has not produced any record therefore, adverse inference should be drawn against the management. In this regard he has referred to 2005 AIR SCW 6103.

25. Controverting these contentions, the learned representative for the management has submitted that the workman never asked to call for record from the management. The management has not suppressed any record, therefore, for non-production of the record no adverse inference can be drawn.

26. In 2005 AIR SCW 6103 referred to on behalf of the workman, the respondent therein followed the method

of pick and choose and produced some record before the court for some period. In the said case the workman called upon the management to produce nominal muster rolls for the period borne out by certificate issued by the former Executive Engineer, the plea of the management was that the workman had not worked as daily wager on all days during that period but no explanation from the side of management was given as to why for remaining period muster rolls were not produced. Hon'ble Apex court observed that under these circumstances case of the workman that he had worked for 240 days in a given year stands supported by the certificate.

27. The facts of the decision supra are quite distinguishable. In present case, upon perusal of the record, it reveals that no request was ever made by the workman to call for any record from the management. Further, the workman himself has admitted in his application Ex. W-1 dated 26-4-05 that he has worked for 365 days in a year and all the record pertaining to payments made to him is available with him. If the record was available with him then he should have produced the entire record which was in his power and possession. Thus, under these circumstances, no adverse inference can be drawn against the management for non-production of the record.

28. In view of the above discussions, since the workman has failed to establish that he had worked uninterruptedly for any year or he had worked for 240 days during preceding 12 months from the date of his termination i.e. 1-9-05, he is not entitled to get protection to section 25-F of the I.D. Act. Thus, this point is decided against the workman.

Point No. II

29. The workman in his affidavit has deposed that at the time of his termination Sh. Banwarilal and others juniors to him were retained by the management. In this regard he has produced copies of the documents Ex. W-24 to Ex. W-26 in support of his statement.

30. The management witness has not categorically rebutted the statement of the workman in his affidavit that junior to him were retained at the time of his termination. In cross examination he has stated that in Nagaur no person named Sh. Banwarilal was appointed. He has further stated that Nagaur office zone is a separate zone and Nagaur office does not come under the Bikaner Zone. He has further stated that there is no record in their office regarding appointment of the workman by General Manager, BSNL, Bikaner Zone. He has also stated that in Nagaur and Bikaner Zone, General Managers are separate.

31. The learned representative on behalf of the workman contends that earlier Nagaur office was under the Bikaner Zone and documents Ex. W-24 to Ex. W-26 produced by the workman reveal that Banwarilal was working as part time worker and his services were regularized on 21-1-2004. It further reveals that Banwarilal

was junior to him. The management has not produced any seniority list of casual worker. Therefore, termination of the workman retaining Sh. Banwarilal casual worker on the job at the time of termination the services of the workman is in violation of provisions of section 25-G of the I.D. Act.

32. The learned representative for the management has submitted that Sh. Banwarilal was casual labourer in office of the Bikaner Region and his services were regularized vide order dated 21-1-2004 Ex. W-25 after holding DPC for regularization of DRM into group 'D' and as per the version of the workman he was working in Nagaur Zone which is a separate Zone, therefore, provisions of section 25-G are not applicable in the present matter.

33. This legal position is not in dispute that section 25-G of the I.D. Act prescribes the principle of retrenchment and applies ordinarily principle of last come last go which is not confined only to workmen who have been in continuous service for not less than one year covered by section 25-F. Therefore, even if workman has failed to prove that he is entitled to protection of section 25-F of the I.D. Act, it is to be seen whether management has violated the provisions of section 25-G of the I.D. Act.

34. Upon perusal of the documents Ex. W-24 to Ex. W-26 it is evident that services of Sh. Banwarilal Casual labour was regularized after holding of DPC for regularization of DRM in to group 'D' vide letter dated 21-1-04 Ex. W-25 and in pursuance of the said order Sh. Banwarilal joined his service on 1-4-2004 in Kolayat Sub-Division which fall under the Bikaner Zone. It is also evident from Ex. W-26 that Banwarilal was a part time casual labour and as such he was engaged in July, 1986.

35. The workman has claimed that he was engaged in the year 1994 but except his self serving statement there is nothing on record to show that he was engaged in the said year. The management has denied this fact that workman was engaged in the year 1994. The management witness has stated that Sh. Banwarilal was engaged and regularized in Bikaner Zone which is a separate Zone, whereas as per the statement of the workman himself he was engaged in Nagaur office as a casual worker. Therefore, in view of above facts, the workman has failed to prove that Sh. Banwarilal part time worker was junior to him and he was retained in violation of section 25-G of the I.D. Act.

Point No. III

36. The workman has pleaded in claim statement that after termination of his services new hands were recruited. In his statement he has not mentioned the name of the persons who were engaged in his place after his termination. Except his bald allegations in this regard there is nothing on record to show that any fresh hands were recruited by the management after alleged termination of

the workman. Therefore, the workman has also failed to prove that the management has violated the provisions of section 25-H of the I.D. Act. Therefore, this point is also decided against the workman.

Point No. IV

37. Since, as per conclusion drawn in respect of point no. I to III, the workman has failed to prove alleged violation of provisions of section 25-F, G and H of the I.D. Act, the reference under adjudication is answered in negative against the workman. Consequently, the workman is not entitled to any relief. The reference under adjudication is answered accordingly.

38. Award as above.

39. Let a copy of the award be sent to Central Government for publication u/s 17(1) of the I.D. Act.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 17 अप्रैल, 2012

का.आ. 1684.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसंरण में केन्द्रीय सरकार जनरल मैनेजर टेलीकाम, बी.एस.एन.एल., नंदेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी./एन.जी.पी./49/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-4-2012 को प्राप्त हुआ था।

[सं. एल-40012/211/2003-आईआर (डी.यू.)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 17th April, 2012

S.O. 1684.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/49/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the General Manager Telecom, BSNL, Nanded and their workman, which was received by the Central Government on 17-4-2012.

[No. L-40012/211/2003-IR (DU)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/49/2004

Date: 28-3-2012

Party No. 1 : The General Manager, Telecom
BSNL, Kothari Complex, Shivaji Nagar,
Nanded, Maharashtra

Versus

Party No. 2 : Shri Laxman Balnath Jadhav,
Lohgaon Road Sakhal Plot, Behind
Parli Railway Gate, Opp. Dr. Dagade
Hospital, Parbhani, Maharashtra-431401

AWARD

(Dated : 28th March, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of BSNL and their workman Shri Laxman Jadhav, for adjudication, as per letter No. L-40012/211/2003-IR (DU) dated 31-5-2004, with the following schedule :—

"Whether the action of the management of BSNL, Nanded in removing from service Shri Laxman Balnath Jadhav, Ex-Casual Driver by verbal order is legal and justified? If not, to what relief the workman is entitled?"

On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Laxman Jadhav ("the workman" in short), filed the statement of claim.

2. The case of the workman as projected in the statement of claim is that he joined the services of party no. 1 in the year 1986 on daily wages @ Rs. 32 as a driver and from the date of his appointment, he worked continuously with party no. 1 and completed more than 240 days of continuous service in each year and therefore, it was obligatory on the part of party no. 1 to regularize his services from the date of completion of 240 days of work and his entire service record was clean and unblemished and without any gap or technical breaks and party no. 1 issued appointment orders from time to time in his favour and also marked his attendance from the date of his joining duty and such records are in the custody of party no. 1 and the party no. 1 continued him on daily wages for years together, without regularizing his services and granting benefits of permanency and the party no. 1 regularized the services of junior employees, namely Hiranman Kure and Madhukar Bhosale and also made fresh appointments in the post of motor driver regardless of merits and he made several request to party no. 1 for grant of permanency, but party no. 1 did not take any cognizance, so he approached the Industrial Court at Jalna to regularize his services and being enraged by his such action, the party no. 1 orally terminated his services w.e.f. 7-8.2001 and the action of the party no. 1 was wholly illegal and void and party no. 1 adopted unfair labour practice and his termination was not in good faith, but in colourable exercise of right of party no. 1 and no notice or notice pay in lieu of notice or retrenchment compensation was given to him, while his services were terminated and the party no. 1 did not maintain and exhibit any seniority list of workmen and retained juniors, but terminated the services of senior and though he made several representation to party no. 1, party

no. 1 did not reinstate him in service, so he raised the dispute before the ALC (C), Chandrapur and on failure of the conciliation proceedings, failure report was submitted by the ALC to the Central Government and the Central Government in its turn referred the dispute for adjudication to this Tribunal. The workman has prayed for his reinstatement in service with full back wages and consequential benefits.

3. It is necessary to mention here that as the Management of BSNL, ("party no. 1" in short) did not file any written statement and did not appear to contest the reference, award was passed by this Tribunal against party no. 1 on 7-12-2009, directing the reinstatement of the workman in service but without back wages. It is also necessary to mention here that the party no. 1 approached the Hon'ble High Court of Judicature of Bombay, Nagpur Bench, Nagpur in writ petition 2762/2010 praying to quash and set aside the award dated 7-12-2009 and the Hon'ble Court by order dated 4-10-2010, set aside the award and remanded back the reference for disposal afresh.

4. According to the direction of the Hon'ble High Court, the party no. 1 filed its written statement. It is pleaded by party no. 1 in its written statement inter-alia that the allegations made in the statement of claim are totally incorrect and not based on factual position as per record and the workman was engaged by it as a casual labour from time to time and the workman had never worked for years together and he had not completed 240 days of work in any year and the workman was not a regular employee and he was engaged as a casual driver at Nanded and was working on contract basis and he was employed by private contractor on fixed payment, which can be found from his own document dated 10-7-2000, which is a letter address by the workman to the Chief General Manager, Telecom, Maharashtra Circle Mumbai, in which, he had clearly mentioned that he had been shifted to private contractor and contractor gives him fixed payment and as the workman was not its employee at the time of filing of the complaint, he cannot make any claim against the department and the workman was engaged as a casual labourer without following due procedure of selection and his engagement was on contract basis for a specific period and therefore, the termination of his services cannot be said to be illegal or unjustified and the engagement of the workman on casual basis did not confer any right on him for regularization of his services and as the engagement of the workman was without following the due procedure, he cannot claim any right to be made regular and the engagement of the workman was never against any clear or permanent vacancy and the workman is not entitled for any relief.

5. The parties have led oral evidence in support of their respective claims, besides placing reliance on documents. The workman has examined himself as a witness on his behalf, whereas, one Gajanan Premjibhai

Chawda has been examined as a witness on behalf of the party no. 1.

6. The examination-in-chief of the workman is on affidavit. In his examination-in-chief, the workman has reiterated the facts mentioned in the statement of claim. However, in his cross-examination, the workman has admitted that he joined the management of Telecom as a daily wager in 1986 and he worked for 56 days from 6-4-1988 to 2-1-1989, 54 days from 26-5-1990 to 19-1-1991. The workman has also admitted that there was no publication of any notice in any newspaper regarding appointment of daily wager in the Telecom department, Nanded and his name was not sponsored by the employment exchange. He has also admitted that he cannot say if the Telecom department has no vehicle of its own at present and the Telecom department is hiring taxi for its use.

7. The witness for the management in his evidence has also reiterated the facts mentioned in the written statement. In his cross-examination the witness has stated that his knowledge about the working of the workman from 1986 to September, 1994 is from the official records and the documents, one to seven filed by the workman do not show that he was engaged as outsider casual driver and the said documents show that the workman was a casual driver in their department. This witness has further admitted that he cannot say if the workman had completed 240 days of work in every calendar year and the wages of the workman in each month was equal to the basic pay of a regular driver.

8. At the time of argument, it was submitted by the learned advocate for the workman that it is clear from the evidence on record that the workman was engaged as a driver on daily wages in the year 1986 and he completed more than 240 days of work in every calendar year and as he made representations for his regularization in service, he was terminated from services by party no. 1 orally w.e.f. 7-8-2001, without compliance of the mandatory provisions of section 25-F of the Act and as such, the termination was illegal and the workman is therefore entitled for reinstatement in service with continuity and all back wages.

9. Per contra, it was submitted by the learned advocate for the party no. 1 that the workman was engaged as a casual labourer on daily wages basis and his services were utilized at times as motor driver and the workman was engaged on contract basis and he had never completed 240 days of work in any calendar year and the provisions of section 25-F are not applicable to the case of the workman and the workman is not entitled for any relief.

10. In view of the stands taken by the parties, I think it apt to mention the principles enunciated by the Hon'ble Apex Court in this regard, before embarking upon the discussion of the merit of the case.

The Hon'ble Apex court, in the decision reported in AIR 1966 SC-75 (Employees, Digawadih Colliery Vs. Their workmen) have held that :—

“Though section 25-F speaks of continuous service for not less than one year under the employer, if the workman has actually worked for 240 days during a period of 12 calendar months both the conditions are fulfilled. The definition of “Continuous Service” need not be read into section 25-B. The fiction converts service of 240 days in a period of twelve calendar months into continuous service for one complete year. The amended section 25-B only consolidates the provisions of section 25(B) and 2(eee) in one place, adding some other matters. The purport of the new provisions, however, is not different. In fact, the amendment of section 25-F of the principal Act by substituting in clause (b) the words “for every completed year of continuous service” has removed a discordance between the unamended section 25B and the unamended Cl. (b) of section 25-F. No uninterrupted service is necessary if the total service is 240 days in a period of twelve calendar months either before the several changes or after these. The only change in the Act is that this service must be during a period of twelve calendar months preceding the date with reference to which calculation has to be made. The last amendment has now removed a vagueness which existed in the unamended section 25-B”.

11. In the decision reported in AIR 1981 SC-1253 (Mehanal Vs. M/s. Bharat Electronics Ltd.), the Hon'ble Apex Court have held that :

“Industrial Disputes Act, 1947 (14 of 1947). Section 25-B (1) and (2)—Continuous service—Scope of sub-sections (1) and (2) is different, (words and phrases—Continuous Service)

Before a workman can complain of retrenchment being not in consonance with Section 25-F, he has to show that he has been in continuous service for not less than one year under that employer, who has retrenched him from service. Section 25-B as the dictionary clause for the expression “continuous”. Both in principle and are precedent it must be held that section 25-B (2) comprehends a situation where a workman to not in employment for a period of 12 calendar months, but has rendered for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of section 25-B and chapter V-A”.

12. The Hon'ble Apex Court in the decision reported in AIR 2003 SC-38 (M/s. Essen Deinay Vs. Rajeev Kumar) has held that :

“Industrial Disputes Act, 1947 (14 of 1947) S.25-F, 10—Retrenchment compensation and—Termination of

services without payment of—Dispute referred to Tribunal—Case of workman/claimant that he had worked for 240 days in a year preceding his termination—Claim denied by management—Onus lies upon claimant to show that he had in fact worked for 240 days in a year—In absence of proof of receipt of salary workman is not sufficient evidence to prove that he had worked for 240 days in a year preceding his termination.”

13. So, it is clear from the principles enunciated by the Hon'ble Apex Court in the decisions mentioned above that for applicability of section 25-F of the Act, it is necessary to prove that the workman worked for 240 days in preceding 12 calendar months commencing and counting backwards from the relevant date and the burden of such proof is upon the workman. So, keeping in view the settled principles enunciated by the Hon'ble Apex Court, now, the present case at hand is to be considered.

14. The present case at hand is now to be considered with the touch stone of the principles enunciated by the Hon'ble Apex Court and it is to be found out, if the workman has been able to prove that he had in fact worked at least for 240 days in the year preceding his termination. According to the workman, his services were orally terminated on 7-8-2001. So, it is necessary for the workman to prove that in the preceding twelve calendar months of 7-8-2001, he had worked for 240 days.

15. Besides his oral evidence, the workman has filed 35 documents to prove his case. The documents filed by the workman are certificates showing his engagement as casual driver with party no.1, some correspondence and character certificates. The documents filed by the workman show that he was engaged as a casual driver by party no. 1 from 1988 till May 2000. The said documents show that the workman was not engaged by party no. 1 continuously and his engagement was made intermittently and he had not completed 240 days of work in any calendar year. There is no document to show that the workman completed 240 days of work preceding the 12 calendar months of 7-8-2001.

16. From the evidence on record, it is found that the workman has failed to prove that he rendered service for 240 days commencing from 7-8-2001 and counting backward within a period of 12 calendar months. As the workman has failed to satisfy the eligibility qualifications prescribed in Section 25-F read with section 25-B of the Act, the provisions of section 25-F of the Act are not applicable to his case. Hence, it is ordered.

ORDER

The action of the management of BSNL, Nanded in removing from service Shri Laxman Balnath Jadhav, Ex-Casual Driver by verbal order is legal and justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 17 अप्रैल, 2012

का.आ. 1685.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायरेक्टर, सेंट्रल इंस्टीट्यूट ऑफ रिसर्च एण्ड अदर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी./एन.जी.पी./14/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 17-4-2012 को प्राप्त हुआ था।

[सं. एल-42011/85/2006-आईआर (डी.यू.)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 7th April, 2012

S.O. 1685.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/14/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between The Director, Central Institute of Cotton Research and Others and their workman, which was received by the Central Government on 17-4-2012.

[No. L-42011/85/2006-IR (DU)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/14/2007

Date : 20-3-2012

Party No. 1 : The Director,
Central Institute for Cotton Research,
Panjri Farm, Wardha Road, Nagpur

Versus

Party No. 2 : The Secretary,
Kendriya Kapas Anusandhan Sansthan
Kamgar Union, (CITU), C/o A.K. Gopalan,
Bhawan Shaniwari, Subhash Road,
Nagpur- 440018

AWARD

(Dated: 20th March, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Central Institute for Cotton Research and their 178 Temporary Status Labours, for adjudication, as per letter No. L-42011/85/2006-IR (DU) dated 4-1-2007, with the following schedule :—

“Whether the action of the management of Central Institute for Cotton Research, Nagpur in stopping the GPF deduction from the salary/wages of 178

Temporary Status Labours, w.e.f. July, 2005, is legal and justified ? If not, to what relief is the workmen are entitled ?

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, "Kendriya Kapas Anusandhan Sansthan Kamgar Union", ('the union' in short), filed the statement of claim and the management of the Central Institute for Cotton Research ("Party No.1" in short) filed its written statement.

The case as projected by the union in the statement of claim is that in the Central Institute for Cotton Research unit, Wardha Road, Nagpur there are about 175 temporary status labourers ("T.S.L." in short), who are in continuous service since last 20-25 years and they are getting regular monthly pay along with D.A., H.R.A. etc. and besides the said 175 TSL, there are 72 seasonal/casual workers, who are allowed continuous work for 200 days every year and Government of India formulated a New Pension Plan Scheme, which came into operation in the Central Government establishments w.e.f. 1-1-2004, which clearly stipulated that, "The scheme for grant of temporary status and regularization of workers (casual) in the Central Government Offices has been reviewed in the light of introduction of New Pension Scheme in respect of persons appointed in the Central Government Services on or after 1-1-2004 and it has been decided to modify the scheme as under:

- (i) As a new pension scheme is based on defined contributions, the length of qualifying service for the purpose of retirement benefits has lost its relevance, no credit of casual service, as specified in para 5(V) shall be available to the casual labourers on their regularization against group 'D' posts on or after 1-1-2004.
- (ii) As there is no provision of General Provident Fund in the new pension scheme, it will not serve any useful purpose to continue deductions towards GPF from the existing casual employees, in terms of Para 5(vi) of the scheme for grant of temporary status. It is, therefore, requested that no further deductions towards General Provident Fund shall be effected from the casual labourers w.e.f. 1-1-2004 onwards and the amount lying in their General Provident Fund accounts including deductions made after 1-1-2004, shall be paid to them". The further case of the union is that the TSL represented by it are in continuous service of the management for last 20-25 years i.e. much before 1-1-2004, the date from which New Pension Scheme was made applicable and GPF deductions were made from their salary till July, 2005 and as such, the TSL are not covered by the New Pension Scheme and on

receipt of the above referred O.M., the party no.1 decided to stop deduction of GPF and refund the accumulated GPF amount to all TSL working with it and it took up the matter with the ICRR, New Delhi vide their letter dated 29-4-2004, but did not receive any reply in the matter and the management also sought clarifications from the ICAR, New Delhi but ICAR failed to make any clarification in the matter, therefore, management continued to deduct GPF till July, 2005 from the salary of the TSL and subsequently, on failure of conciliation in the matter, the reference has been made.

Prayer has been made by the union to answer the reference in affirmative.

3. The party no. 1 in its written statement has pleaded inter-alia that the reference is not maintainable as it (party no. 1) is not an industry as defined u/s. 2(j) of the Act, as it serves as a national laboratory for applied agricultural research on cotton and it carries on experimental and fundamental research on different variety of cotton and the purpose of research is to acquire knowledge, but the knowledge is not intended for sale and the research is not for the benefit or use of others and as such, the research activity cannot be called business, trade or manufacture and it is not engaged in a commercial industrial activity and it is more an institution discharging governmental functions and the provision of the Act are not applicable to it and the Government of India, Department of Personnel and Training issued office memorandum No. 51016/2/90-Estt.(C) dated 10-9-1993 and reviewed the policy and decided that the existing guidelines contained in the office memorandum dated 7-6-1988 be continued to be followed and framed the scheme called, "Casual Labourers (Grant of Temporary Status and Regularisation)" Scheme of Government of India, 1993, which was brought into force with effect from 1-9-1993 and the said scheme was adopted by it and upon conferment of temporary status to the casual labourers, they are treated as casual labourers on par with temporary group 'D' employees for the purpose of General Provident Fund, only after completion of three years of continuous service, but by conferring temporary status to the casual labourers, they do not automatically get the status of regular employees of class-IV in 'D' category, as such, they are entitled only to the benefits stated in clause 5 of the above said scheme and the Government of India introduced a New Defined Contribution Pension Scheme, replacing the existing system of defined Benefit pension system, vide Government of India, Ministry of Finance, Department of Economic Affairs Notification dated 22nd December, 2003, which came into operation w.e.f. 1-4-2004 and was made applicable to all new entrants to Central Government Service and in terms of clause 9(e) of the said pension scheme, no deduction shall be made towards GPF

contribution from the Government Servants joining the service on or after 1-4-2004 and in view of the introduction of the New pension scheme, the Ministry of Personnel, Public Grievances and Pensions, (DOPT) issue office memorandum no. 49014/1/2004-Estt. (c) dated 26-4-2004, modifying the "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993" and in terms of such modification, no credit of casual service as specified in clause 5, shall be available to the casual labourers upon their regularization against filling of sanctioned posts in group 'D' category on or after 1-4-2004 and since, there is no provision of GPF in the new pension scheme direction was given not to deduct contributions to GPF from the Casual labourers w.e.f. 1st April, 2004 onwards and to pay the amount lying in their GPF Account to them and in view of the direction of the Government of India, the claim is not maintainable.

The further case of party no.1 is that it had sought clarification from the Indian Council of Agricultural Research, New Delhi and the ICAR vide their reply dated 6th July, 2005 had specifically stated that the instructions of Government of India in connection with the introduction of New Pension Scheme and modification of scheme for grant of temporary status are very clear and they directed to take action accordingly and accordingly, it issued an office order dated 15-7-2005 and directed the Farm Superintendent to appraise the TSL about the same, but the union challenged the office order dated 15-7-2005 and raised the dispute and since there is no provision of GPF in the New Pension Scheme, its action is legal and proper and it being a policy laid down by the Government of India, the legality of the said policy cannot be questioned and therefore, the reference is to be answered in the negative.

4. During the course of argument, it was submitted by the learned advocate for the union that TSL represent by the union are in the continuous service of party no. 1 for last 20-25 years, which is much before 1-1-2004, the date from which, the new pension scheme came in to force and GPF deductions were made from their salary till July, 2005 and as such, the new pension scheme is not applicable to the TSL and the action of party no. 1 therefore is not legal and the reference is to be answered in favour of the union. In support such contention, the learned advocate for the union placed reliance on the order passed by the learned Central Administrative Tribunal, Jodhpur Bench, Jodhpur dated 15-9-2006 in original Application no. 71/2005.

5. Per contra, it was submitted by the learned advocate for the party no. 1 that party no. 1 is not an industry as defined u/s. 2(j) of the Act, as because is not a profit making unit and it is a research institute and its objectives are to devise ways and means to create new varieties of cotton and its object is not to render services

to others and in view of the circulars of the Government regarding casual labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993, the casual workers working with party no. 1 were granted temporary status and their regularization is dependent upon the vacancy of sanction posts, after following the due procedure laid down in recruitment rules for regularization of their services and after conferment of temporary status to the workmen, they were treated as casual labourers on par with temporary group 'D' employees for the purpose of General Provident Fund, after completion of three years of continuous service, but by virtue of conferring temporary status, they do not automatically get the status of regular employees of class IV and as such, they are only entitled to the benefits stated in clause 5 of the above mentioned scheme and Government of India, Ministry of Personnel, Public Grievances and Pensions, DOPT, New Delhi issued memorandum no. 49014/1/2004-Estt. (c) dated 26-4-2004 and modified the scheme for grant of temporary status and directions were issued that there should not be further deduction towards GPF from the casual labourers w.e.f. 1-1-2004 onwards and the amounts lying in their GPF accounts, including deductions made after 1-1-2004 should be paid to them and in view of the introduction of the new defined contribution pension scheme, replacing the existing system of defined benefit pension system by the Government of India and the modification of the scheme of casual labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993, that no credit of casual service as specified in clause 5(v) shall be available to the casual labourers upon their regularization against filling of sanctioned post in group 'D' category on or after 1-4-2004, the workmen are not entitled for contribution towards GPF and as such, the action of the party no. 1 is justified and the same is proper and legal.

It is further submitted by the learned advocate for the party no. 1 that policy decision of the government is not subjected to judicial review, unless the decision is contrary to any statutory provision or the constitution and the court cannot interfere with it. In support of such contentions, the learned advocate for the party no. 1 has placed reliance on the decision reported in (2002) 2 SCC 333 (Balco Employees Union Vs. Union of India).

The Hon'ble Apex Court in the above decision have held that, "Administrative law — Judicial review — Policy decisions — Economic decision — Scope of judicial review of — Unless decision is contrary to any statutory provision or the constitution, court cannot interfere with it — Court cannot examine relative merits of different economic policies and cannot strike down a policy merely on ground that another policy would have been fairer and better — Government's policy regarding disinvestment in public sector — Court examine its desirability."

7. Perused the pleadings of the parties. Admittedly, the union has based its claim on the basis of the scheme floated by the Government of India regarding casual labourers (Grant of Temporary Status and Regularization) Scheme on 1-9-1993. It is also not disputed that basing on the said scheme the present workmen were given temporary status. For better appreciation of the dispute between the parties, I think it necessary to mention about the scheme in toto which is as follows:

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993."
2. This Scheme will come into force w.e.f. 1-9-1993.
3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.
4. Temporary Status
 - (i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of the OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
 - (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.
 - (iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.
 - (iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process of Group 'D' posts.
5. Temporary status would entitle the casual labourers to the following benefits :—
 - (i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA.

- (ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days, (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
 - (iii) Leave entitlement will be on a pro-rata basis at the rate of one day of every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible. They will also not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
 - (iv) Maternity leave to lady casual labourers are admissible to regular Group 'D' employees will be allowed.
 - (v) 50% of the service rendered under temporary status would be counted for purpose of retirement benefits after their regularization.
 - (vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Government servants of their Department.
 - (vii) Until they are regularized, they would be entitled to Productivity Linked Bonus/Adhoc bonus only at the rates as applicable to casual labourers.
6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.
 7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of

one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. Procedure for filling up of Group 'D' posts

- (i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfill the minimum qualification prescribed for the post, regularization will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed as relaxation equivalent to the period for which they have worked continuously as casual labourers.

9. On regularization of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in the Department's OM dated 07.06.1988 should be followed strictly in the matter of engagement of casual employees in Central Government offices.

11. Department of personnel and Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

8. Clause 4(iv) of the said scheme says that such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts. Clause 6 of the scheme specifies that no benefits other than those specified in clause 5 will be admissible to casual labourers with temporary status. Clause 8 of the scheme provides the procedure for filling up of group 'D' posts and according to the said procedure two out of every three vacancies in group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules

and in accordance with the instructions issued by DOPT from amongst casual workers with temporary status. However, regular group 'D' staff rendered surplus for any reason will have prior for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fulfil the minimum qualification prescribed for the post, regularization will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed as relaxation equivalent to the period for which they have worked continuously as casual labourers.

So, it is clear from the above scheme that the casual labourers, who acquired temporary status, will not be entitled for automatic regularization after completion of 3 years of continuous service after conferment of temporary status. Regularization of the casual labourers who acquire temporary status can only be done through regular selection process for Group 'D' post. Hence, the demand of the workmen that as they have completed three years of service after conferment of temporary status, they are entitled for regularization and all consequential benefits is not legal and cannot be entertained. They are not entitled for automatic regularization unless and until they are selected through regular selection process for group 'D' post.

At this juncture, I think it proper to mention that the orders passed by the learned CAT, Jodhpur Bench, in original application no. 71/2005 dated 15-6-2006 has no application to the present case at hand, as because it is found from the said order that the workmen involved in that case were directed to be treated as regular from 29-10-1989, in terms of the award of the Labour Court, which is not so in this case.

9. So for the stoppage of the contribution of the workmen towards GPF from the month of July, 2005 is concerned, it is found that the Ministry of Personnel, Public Grievances and Pensions, (DOPT), by OM No. 49014/1/2004/Estt. (C) dated 26-4-2004, modified the scheme for grant of temporary status. The said OM reads as follows :

Subject :— Introduction of New Pension Scheme —
Modification of Scheme for grant of temporary status.

The undersigned is directed to say that the scheme for grant of temporary status and regularization of casual workers in Central Govt. Offices formulated in pursuance of the judgment dated 16-2-1990 of the Central Administrative Tribunal, Principal Bench in the case of Raj Kamal & Others Vs. Union of India has been reviewed in the light of introduction of new pension scheme in respect of persons appointed to the Central Government service on or

after 1-1-2004 and it has been decided to modify the schemes as under :

(i) As the new pension scheme is based on defined contributions, the length of qualifying service for the purpose of retirement benefits has lost its relevance, no credit of casual service, as specified in para 5(v), shall be available to the casual labourers on their regularization against Group 'D' posts on or after 01.01.2004.

(ii) As there is no provision of General Provident Fund in the new pension scheme, it will not serve any useful purpose to continue deductions towards GPF from the existing casual employees, in terms of para 5 (vi) of the scheme for grant of temporary status. It is, therefore, requested that no further deduction towards General Provident Fund shall be effected from the casual labourers w.e.f. 1-1-2004 onwards and the amount lying in their General Provident Fund Accounts, including deductions made after 1-1-2004, shall be paid to them.

2. The existing guidelines contained in this Department's OM No. 49014/2/86-Estt. (C) dated 7-6-1988 may continue to be followed in the matter of engagement of casual workers in the Central Government Offices.

Sd/-

(Smt. Pratibha Mohan)

Director

The Ministry of Personnel, Public Grievances and Pensions, (DOPT), by OM No. 49014/1/2004/Estt. (C) dated 23-7-2004 further modified the scheme for grant of temporary status the said OM reads as follows:

Subject :—Introduction of New Pension Scheme—Modification scheme for grant of temporary status.

The under-signed is directed to refer to this Department's OM of even number dated 26th April, 2004 vide which the provisions of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Govt. of India, 1993 was reviewed and modified on introduction of New Pension Scheme w.e.f. 1st January, 2004. The references have been received in this Department seeking clarification as up to what date interest on the GPF accumulations of the Casual Labourers has to be allowed. The matter has been considered in consultation with Department of Pension & Pensioner's Welfare and Ministry of Finance (Department of Expenditure) and it has been decided that interest up to 30th April, 2004 may be allowed on the GPF accumulations of the casual labourers who have been bestowed with temporary status.

2. This issues in concurrence with Department of Expenditure vide their UO No. 442/EV/2004 dated 15-7-2004.

Sd/-

(Smt. Pratibha Mohan)

Director

It is clear from the OMs mentioned above that after introduction of the new pension scheme by the Government of India, the casual labourers, who had been conferred with temporary status even prior to 1-1-2004 are also not entitled for contribution towards GPF and the — contribution already deducted from them prior to 1-1-2004 and made after 1-1-2004 shall be paid to them along with interest up to 30-4-2004. The party no.1 implemented the directions issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, (DOPT) and stopped deduction of contribution towards GPF from the workmen from July, 2005. Hence, the action of party no.1 for stoppage of contribution of the workmen towards GPF from the month of July, 2005 cannot be said to be illegal or unjustified.

10. Applying the principles enunciated by the Hon'ble Apex Court as reported in (2002) 2 SCC-333 (Supra) to the present case, it is also found that the policy decision of the Government of India cannot be reviewed and this Tribunal has no jurisdiction to interfere with the same.

11. In the result, it is ordered :—

ORDER

The action of the management of Central Institute for Cotton Research, Nagpur in stopping the GPF deduction from the salary/wages of 178 Temporary Status Labourers, w.e.f. July, 2005, is legal & justified. The workmen are not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 18 अप्रैल, 2012

का.आ. 1686.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आफिसर इन्वार्ज, टेलीग्राफ डिपार्टमेंट, कोरबा (मध्य प्रदेश) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी./एल.सी./आर./87, 89, 90 और 91/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-4-2012 को प्राप्त हुआ था।

[सं. एल-40012/41, 43, 44, 39/2000-आईआर (डी.यू.)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 18th April, 2012

S.O. 1686.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/87, 89, 90 and 91/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of the Officer-in-Charge, Telegraph Department, Korba (MP) and their workman, which was received by the Central Government on 18-4-2012.

[No. L-40012/41, 43, 44 and 39/2000-IR (DU)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

PRESIDING OFFICER: SHRI MOHD. SHAKIR HASAN

CASE No. CGIT/LC/R/87/2000

Shri Thanuram Gondle,
C/o Dr. Pradeep Kumar,
Jain Hospital, Seethamani,
Sada Complex,
Korba (MP)

....Workman

Versus

The Officer Incharge,
Telegraph Department,
Departmental Telegraph Office,
PO Korba, Korba (MP)

....Management

CASE No. CGIT/LC/R/89/2000

Shri Vishwakarma P. Banjare,
Ramnagar, SECL,
PO Korba Colliery,
Korba (MP)

....Workman

Versus

The Officer Incharge,
Telegraph Department,
Departmental Telegraph Office,
PO Korba, Korba (MP)

....Management

CASE No. CGIT/LC/R/90/2000

Shri Ujit Ram Yadav,
Opp Post Office, Subhan Block,
Korba colliery,
Korba (MP)

....Workman

Versus

The Officer Incharge,
Telegraph Department,
Departmental Telegraph Office,
PO Korba, Korba (MP)

....Management

CASE No. CGIT/LC/R/91/2000

Shri Chhotelal Chauhan,
S/o Nanku Ram Chauhan,
Near Santoshi Kuteer, Mudapar,
Korba (MP)

....Workman

Versus

The Officer Incharge,
Telegraph Department,
Departmental Telegraph Office,
PO Korba, Korba (MP)

....Management

AWARD

Passed on this 20th day of March, 2012

1. (a) The Government of India, Ministry of Labour vide its Notification No. L-40012/41/2000/IR(DU) dated 29-5-2000 has referred the following dispute for adjudication by this tribunal :—

“ Whether the action of the management of Officer Incharge, Departmental Telegraph Office, Korba in terminating the services of Shri Thanuram Gondle, ex-messenger of Telegraph Office, w.e.f. 1996/April 1999 is legal and justified? If not, to what relief the concerned workman is entitled?”

(b) The Government of India, Ministry of Labour vide its Notification No. L-40012/43/2000/IR(DU) dated 29-5-2000 has referred the following dispute for adjudication by this tribunal :—

“ Whether the action of the management of Officer Incharge, Departmental Telegraph Office, Korba in terminating the services of Shri Vishwakarma Prasad Banjare, ex-messenger w.e.f. 1996/15-5-1999 is legal and justified? If not, to what relief the concerned workman is entitled?”

(c) The Government of India, Ministry of Labour vide its Notification No. L-40012/44/2000/IR(DU) dated 29-5-2000 has referred the following dispute for adjudication by this tribunal :—

“ Whether the action of the management of Officer Incharge, Departmental Telegraph Office, Korba in terminating the services of Shri Ujit Ram Yadav, ex-messenger w.e.f. 1996/10-5-99 is legal and justified? If not, to what relief the concerned workman is entitled?”

(d) The Government of India, Ministry of Labour vide its Notification No. L-40012/39/2000/IR(DU) dated 30-5-2000 has referred the following dispute for adjudication by this tribunal :—

“ Whether the action of the management of Officer Incharge, Departmental Telegraph Office, Korba in terminating the services of Shri Chhotelal Chauhan, Telegraph messenger w.e.f. 15-4-99 is justified? If not, to what relief the concerned workman is entitled?”

2. All the four references are taken up together in the ends of justice as all are on the common subject matters and issues.

3. The cases of the workmen in short is that the workmen Shri Vishwakarma P. Banjare, Shri Ujit Ram and Shri Chhotelal Chouhan were appointed as part time

telegraph messengers in the year 1991 at Korba Telegraph Office, Korba and worked regularly till 1999. The workman Shri Thanuram Gondle was also appointed as part-time telegraph messenger in the year 1994 and worked regularly till 1999. They were paid wages on the monthly basis with admissible dearness allowance. It is stated that they were to be regularized in view of the direction of the Hon'ble Supreme Court on 24-1-97 but instead of regularizing them, they had been arbitrarily terminated from the services. It is submitted that the workmen be given the status of regular employees with back wages of regular employee or any other relief as it may deemed fit and proper.

4. The management filed Written Statement by way of affidavits in all the reference cases. The case of the management, inter alia, is that they had been engaged on casual basis in case of availability of work and they were not employed continuously specially 240 days prior to the termination as required under the Act, 1947. Under the circumstances, it is submitted that all the reference cases be dismissed.

5. On the basis of the pleadings of the parties, the following issues are framed for adjudication—

I. Whether the action of the management in terminating the services of the workmen is justified ?

II. To what relief the workmen are entitled ?

6. Issue no. I

To prove the cases, the workmen are examined in their cases respectively. The workman Shri Thanuram Gondle has stated in his evidence that he was appointed in the year 1994 on the basis of part-time Telegraph messenger on basic monthly pay of Rs. 375 per month with admissible DA and had worked regularly till 1999. He was paid wages by the Incharge Officer and marked his presence on Telegraph messenger slips. He has admitted in his cross-examination that he was part-time daily wagger. He was not given any appointment letter and he was not appointed on any process of appointment. The management has not suggested that he had not worked continuously till 1999 nor any notice nor any compensation was paid in view of retrenchment from service. It appears from his evidence that he worked continuously and Section 25 B of the Industrial Disputes Act, 1947 (in short the Act, 1947) is attracted and his service is deemed to be in continuous service for one year during the period of 12 calendar months preceding the date with reference. There is no evidence to prove that the retrenchment compensation was paid before disengagement from services under the provision of Section 25 F of the Act, 1947.

7. Another workman Shri Vishwakarma P. Banjare has also supported his case. He has also stated that he was also engaged from 1991 to 1999 on part-time telegraph

messenger on monthly pay with admissible DA. He has supported in his evidence that he was arbitrarily terminated from the services. He has corroborated other workmen in his evidence. He has stated that he was paid Rs. 600 per month from 1996 to 1999. The management has not even suggested that he had not worked continuously till 1999. There is no reason to disbelieve his evidence specially when the engagement of the workmen is not denied by the management.

8. Another workman Shri Ujit Ram Yadav has also supported his case in his evidence. His evidence is in corroboration with the evidence of other workmen whose cases are on similar footing and on similar facts. He has supported that he was engaged as part-time telegraph messenger in the year 1991 on monthly pay of Rs. 375 per month with admissible DA. He worked till 1999 continuously. He was paid wages by the Incharge Officer. He has been cross examined but there is nothing in his cross-examination to disbelieve this witness.

9. The last workman Shri Chhotelal Chouhan has also supported his case that he was engaged in the year 1991 on monthly pay with admissible DA. He has stated that he was engaged till 1999. His evidence is similar to the evidence of other workmen. His cross-examination is same as has been done to other workmen. There is nothing in his cross-examination to disbelieve this workmen. Thus the oral evidence of the workmen clearly show that they were engaged in 1991 and Shri Thanuram was engaged in the year 1994 as part-time telegraph messenger. They were paid on monthly basis with admissible DA and continued till 1999. Their evidence clearly shows that their services were continuous as has been required under Section 25 B of the Act and they were considered to be retrenched employees. The provision of Section 25-F of the Act appears to be applicable. There is no evidence on the record to show that they had been retrenched after complying the provision of Section 25-F of the Act, 1947.

10. The workmen have also filed photocopies of the documents in their cases. The learned counsel for the management argued that the documents have not been proved by the workmen. It is true that the documents are not proved in accordance with Evidence Act but these documents are not denied by the management neither in his pleading nor in his evidence though it were served alongwith statement of claims. Since it is not specifically denied, it deems to be admitted.

11. Now let us examine the documentary evidence adduced by the workmen separately. In 1987/2000, Paper No. 4/2 is the forwarding letter dated 25-9-98 of D.T.O., Korba to District Manager, Telephone Department, Bilaspur filed by workman Thanuram Gondle whereby he had sent the list of casual labours employed in the light of circular dated 27-8-98 (Paper No. 4/3). This is filed to show that there were part-time casual labours and list was

prepared of those casual labours who were working at that time.

12. Paper Nos. 4/4 and 4/5 are the weekly duty charts of 30-6-96 to 6-7-96 and 24-9-95 to 30-9-95. These charts show that these workmen were part-time telegraphman and duty was assigned to them by the D.T.O., Korba. This further shows that they were in employment in the year 1995 and 1996 also. Paper No. 4/6 shows that it is chart of period of duties done by these workmen till 1995. This document shows that Shri Ujit Ram, Chhotelal and Vishwakarma were engaged from the year 1991 and worked till 1995 and Thanuram was engaged in 1994 and worked till 1995. This further shows that they had worked more than 240 days in each year. Paper No. 4/4 shows the duty chart of workmen from 30-6-96 to 6-7-96. This shows that they were further engaged after 1995 as has been alleged by the workmen. The learned counsel for the management argued that the period of chart shows that they had been discontinued and became contracted labour after 1995. There is no document filed by either parties that they had entered into any contract with the management. There is no such pleading of the management. The duty chart of 1996 shows that they were further engaged as part-time telegraphman after 1995 also. It is clear from Paper No. 4/6 that they were continuously engaged for the entire year even sometime on holidays. These documents substantiate the case of the workmen that they were continuously engaged as part-time telegraphman. Paper No. 4/7 is the payment sheet of the month of December 1991. This is filed to show that the payments were made to the workmen on monthly basis with admissible DA. This further shows that extra payment was made for extra works to those workmen who did extra duty. Thus the document filed by the workman in R/87/2000 substantiate the case of the workmen that they were engaged on monthly basis regularly as part-time telegraphman.

13. The workman Shri Vishkarma Prasad Banjare has also filed documents in Case no. R/89/2000. Paper Nos. 4/2 and 4/3 are payment sheets of the part-time telegraphman of the month of June 1991 and January 1992. This is filed to show that they were engaged on monthly basis with pay and DA. This fact supports the case of the workmen. Paper No. 4/4 is same as discussed Paper No. 4/3 of Case No. R/87/2000. He has filed chart of the period of work from 91 to 95 which is paper no. 4/6. This document is also discussed above which shows that he was in continuous service and was not intermittently from 1991 till 1995 but thereafter he was also engaged but there is no case of the management that these workmen were contacted labour after 1995. Paper No. 4/8 is the duty chart of the week from 17-9-95 to 23-9-95. This shows that they were part time telegraphman and worked for the entire week. It does not show that they used to engage only for a day or two. This chart further corroborates the case of the workmen. Paper No. 4/9 is duty slip of dated 4-5-99.

This is filed to show that till 1999 he was engaged. Thus the documentary evidence filed by the workman Shri Vishkarma P. Banjare substantiate the case of the workmen.

14. The workman Shri Ujiti Ram has also adduced documentary evidence in R/90/2000. He has also filed same monthly payment sheets of the month of December 91 and January 92 which are paper no. 4/2 and 4/3. He has also filed the same chart of the period of work from 1991 to 1995 which is paper no. 4/4. Paper no. 4/5 is the same forwarding letter and Paper No. 4/6 is the letter of Divisional Engineer. These documents have already been discussed earlier. Paper No. 4/7 is the duty chart of the work from 1-10-95 to 7-10-95 which is filed to show that these workmen were deputed on work for the whole week. Paper No. 4/9 is the duty slip of dated 13-4-99. This shows that Shri Ujit Ram Yadav was engaged till 1999.

15. The workman Shri Chotelal Chauhan has also adduced documentary evidence in R/91/2000. His documents are same as has been filed by other workmen in which it appears that he had also as part time telegraphman from 1991 continuously on monthly basic pay with admissible DA. The oral and documentary evidence adduced by the workmen establish that they had worked more than 240 days in every calendar year specially twelve calendar months preceding the date with reference under the provision of Section 25-B of the Act. They are to be treated as retrenched employees. There is no evidence of the parties that any notice was given or retrenchment compensation was paid to these workmen under the provision of Section 25-F of the Act.

16. On the other hand, the management has examined one witness namely Shri N.D.Sharma in the case. The same witness is examined in all the four reference cases. The evidence is also same. The management has not adduced any documentary evidence though the management is custodian of the records of these workmen. However, the evidence of Shri N.D. Sharma, Sub Divisional Engineer (Commercial) Kobra is to be examined to consider the point for reference. He has stated that the workmen were engaged as daily wages employee as and when he reported for work and subject to availability of work. There is no document to show that they were engaged intermittently whereas the workmen have filed chart of the period of work done from 1991 to 1995 which itself shows that they were continuously employed which is contradictory to the pleading of the management. This shows that the management has not come with fair case. Thus the oral evidence of the management is not sufficient to prove the case of the management.

17. The learned counsel for the workmen argued that it is simply denied by the management that they had not rendered 240 days in a year prior to their discontinuation of service. The management is custodian of the records of its employees. Admittedly the workmen

were engaged on part time telegraphmen. The workmen have claimed that they worked continuously till 1999 when they were terminated from services. It is submitted that it is the bounded duty of the management to produce the records to rebut the same. However, the workmen have filed some of the documents to show that they were engaged on monthly basis on basic pay with admissible DA continuously and not intermittently. It is submitted that adverse inference is to be drawn against the management on non-production of documents in the case and has given no explanation. The learned counsel for the workmen has relied a decision reported in 2010(2)MPLJ 30, Director, Fisheries Terminal Department Vrs. Bhiubhai Meghajibhai Chavda wherein the Hon'ble Supreme Court held that—

“Applying the principles laid down in the above case by this Court, the evidence produced by the appellants has not been consistent. The appellant's claim that the respondent did not work for 240 days. The respondent was workman hired on a daily wage basis. So it is obvious as this Court pointed out in the above case that he would have difficulty in having access to all the official documents, muster rolls etc. in connection with his service. He has come forward and deposed, so in our opinion the burden of proof shifts to the employer/appellants to prove that he did not complete 240 days of service in the requisite period to constitute continuous service. It is the contention of the appellant that the services of the respondent were terminated in 1988. The witness produced by the appellant stated that the respondent stopped coming to work from February 1988. The documentary evidence produced by the appellant is contradictory to this fact as it shows that the respondent was working during February, 1989 also. It has also been observed by the High Court that the muster roll for 1986-87 was not completely produced. The appellants has inexplicably failed to produce the complete records and muster rolls from 1985 to 1991, inspite of the direction issued by the Labour Court to produce the same. In fact there has been practically no challenge to the deposition of the respondent during cross-examination. In this regard, it would be pertinent to mention the observation of three Judges Bench of this Court in the case of Municipal Corporation, Faridabad Vrs. Shri Niwas (2004)8SCC 195 wherein it is observed that—

“A Court of Law even in a case where the provisions of the Indian Evidence Act apply, may presume or may not presume that if the party despite possession of the best evidence had not produced the same, it would have gone against his contentions. The matter, however, would be different where despite direction by a Court the evidence is withheld.”

Thus it is clear that the burden was on the

management to prove that the workmen had not worked 240 days of service in the requisite period. Some of the documents filed by the workmen contradicts the case of the management that they were engaged intermittently. Thus it is clear that there are documents in existence with the management. Considering the entire evidence adduced in the case, it is clear that the workmen had continuously worked till 1999 specially more than 240 days preceding the date with reference under the provision of Section 25 B of the Act, 1947. Admittedly no notice was given prior to termination nor any retrenchment compensation was paid to them as required under the provision of Section 25 F of the Act, 1947. Thus the action of the management is not justified and legal. This issue is decided in favour of the workmen and against the management.

18. Issue No. II

The workmen have pleaded that they are unemployed and their bread have been snatched away by the management. There is no pleading of the management that they are gainfully employed thereafter and thus the pleading of the workmen is deemed to be admitted. Considering the above discussion, the management is directed to reinstate them from the date of termination with full back wages. Accordingly, the reference is answered.

19. In the result, the award is passed without any order to costs.

20. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 19 अप्रैल, 2012

का.आ. 1687.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमान्डेन्ट, 509 आर्मी बेस वर्क्स शॉप आगरा कैंट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट (संदर्भ संख्या 90/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-4-2012 को प्राप्त हुआ था।

[सं. एल-14012/15/1997-आईआर (डीयू)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th April, 2012

S.O. 1687.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 90/98) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the Commandant, 509, Army Base Workshop Agra Cantt. and their workman, which was received by the Central Government on 19-4-2012.

[No. L-14012/15/1997-IR (DU)]

RAMESH SINGH, Desk Officer

ANNEXURE
BEFORE SRI RAM PARKASH, PRESIDING
OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL- CUM- LABOUR
COURT, KANPUR

Industrial dispute No. 90 of 98

Between

The Secretary,
 509 Karamveer Union,
 48-A Subhash Nagar,
 Bodla Road,
 Agra.

AND

The Commandant,
 509, Army Base Workshop,
 Gwalior Road,
 Agra Cantt.

AWARD

1. Central Government, MoL, New Delhi vide notification No. L- 14012/15/97- IR(DU) dated 16-4-98, has referred the following dispute for adjudication to this tribunal—

2. Whether the claim of the union for promotion of Sri Satpal Master Craftsman on the said post with effect from 4-2-83 is legal and justified? Whether the management has violated the extant promotion policy? If so, said workman is entitled to what relief?

3. Brief facts are—

4. The concerned workman was substantially appointed at post of mate on 2-7-63, thereafter he was designated as Radar Mechanic and as such vide seniority list circulated on 1-3-87 his name figured at Serial No. 1. It is also alleged by the workman that vide order dated 21-2-83, there was a promotion for the post of master crafts man in the scale of 425-640 from the post of Radar Mechanic the criteria for which was 10 years of continuous service against which there should have been 3 years of service of a skilled workman Grade 1 was essential. The promotion to the post of master crafts man was according to seniority but leaving un-suitable. The workman was falling under eligibility zone as per norms for the promotion for which the workman exercised his option within time. The workman was duly awarded commendation certificate by the opposite party as well as after completion of professional training he was awarded with professional certificate dated 23-12-95. There is no adverse entry in his character role still the opposite party in violation of the seniority list dated 1-3-87 and disturbing the same has promoted a junior person at the post of master crafts man whose name was figuring at Serial No. 6 by name Sri B N Maithy. The opposite party in an illegal manner ingoing

the legitimate right of promotion of the workman has further promoted several juniors viz. Sri B M Singh, Harbans Singh, Jagtar Singh, Anup Singh, C B Mihra etc. It is also alleged that the concerned workman was promoted at the post of master crafts man with effect from 1-4-86. Workman has repeatedly sent representations to the authorities of the opposite party but all in vain. It has also been claimed by the workman that he was due to be promoted at the post of Master Crafts man with effect from 2-4-83 and in case he would have been given promotion with effect from 2-4-83 he would have further become entitled for promotion to the next higher grade on 24-10-97, the date on which his junior Sri Maithy was given promotion. But due to illegal action of the opposite party he was deprived of his right to be promoted at the next higher grade whereas his juniors were given promotion, this act is highly illegal and against the departmental orders and rules relating to the promotion policy. On the basis of above pleadings it has been claimed that he should also be given promotion with effect from 23-10-97 whereas Sri Maithy junior to him was given promotion from 24-10-97.

5. Opposite party has filed their reply emphatically denying the claim of the claimant. It stated that the claimant did not fulfill the required standard in the merit for selection of Master Crafts man. He was given number of reasonable opportunities to prove his competence but he did not come in the merit for the same. As per the need of letter number—dated 21-9-82, although his name was recommended by the workshop twice a year 1984, 1985 and 1986 along with other juniors. However, Sri Satpal came in the merit in the departmental committee held in March 1986 accordingly he had been elevated with effect from 1-4-86. Management has fully considered all his representations according to law. Selection of master crafts man is made purely on merits only at the rate of 10% of the existing vacancy in the corps of EME as a whole and not on unit basis for which seniority is no criteria, photocopy of the said letter is annexure 11 filed with the written statement. It is alleged that for promotion to the post of master crafts man highly technical skill is a pre requirement. The workman was given an opportunity for promotion for the post of master crafts man in Feb. 1983. It is also alleged that for crossing efficiency bar in employee is required to pass the EB Trade Test and it is only thereafter he is granted increment.

6. As the workman has cleared the EB Test he was given promotion at the post of Master Craftsman in the year 1986. Workman was not selected for the post of master crafts man by the selection in the year 1983, therefore he was not given promotion at the said post. It also stated by the opposite party that relevant documents have already been filed along with written statement as annexure. In the end it has been claimed by the opposite party that as the workman was not found suitable he was not given promotion in the year 1983. Lastly it is alleged that the claim of the workman is devoid of merit and is liable to be rejected.

7. Workman has also filed rejoinder but nothing new has been pleaded therein except reiterating the facts already pleaded by him.

8. Both the parties have adduced oral as well as documentary evidence. Claimant has filed 14 documents vide list dated 11-8-98, these are photocopies. Mostly these documents are commendation certificate and the representation given by the claimant regarding his promotion on the post of Master Crafts man and the reply submitted by the opposite party.

9. There is also certificate of EB Test and seniority roll of Radar Mechanic. Opposite party has filed several documents. Six documents have been filed vide list 28-9-98. They have also filed attested photocopies of DOPCs during September 84, March 85 and September 85, vide list 12-9-2000. They have also filed several documents along with written statement as annexure. Therefore the documents filed by the opposite party are exhibited as Ext. 1 to Ext. 19.

10. Both the parties have adduced oral evidence. Claimant has adduced himself as W.W.1. Opposite party has produced one witness as Sri JS Bhatia as M.1.

11. Heard and perused the record.

12. Now the question germane is that whether the applicant/claimant was entitled to be promoted to the post of Master Crafts Man in the year 1983 as referred in the schedule by the Government of India or not.

13. I have examined the evidence of both the witnesses. Management witness M.W.1 has clearly stated that criteria for promotion for the post of master crafts man was purely on merit basis and not on the basis of seniority. He has also referred annexure 1 which provide creation of grade of Master Craft man in the defense establishment. It provides that the number of posts of master crafts man (in short MC) in each trade shall be up to 10% of the total number of the sanctioned post in highly grade in each organization. There will be no trade test instead assessment of reports of the individual worker which shall be obtained in the proforma attached.

14. Standard of craftsman ship will be judged more on the basis of persistent attainment of very high skilled levels in job execution over a length of period rather than single achievement which may not represent the true level of skill attained by a particular individual.

15. Therefore the circular dated 21-9-82 Ext. No. 1 clearly specifies that the criteria for promotion on the post Master Craft's is only merit and not seniority.

16. Therefore, after considering the above provisions of service rules the Tribunal is not inclined to believe the case of the workman that he was senior and he was not give promotion to the post as the promotional post was based on suitability and merit only as per records available before the court it is found that the claimant was not found suitable for promotion in the year 1983.

17. Therefore, in view of above discussions of the facts and provision of law it is found that the concerned workman was not found fit to be promoted in the year 1983 by the management. Moreover when the reference relates for his promotion in the year 1983, therefore, considering the provisions of Section 10(4) of the Industrial Disputes Act, 1947, the tribunal is not supposed to consider further events after the year 1983, when the juniors to the workman were found fit in Departmental Promotion Committee and they were given promotion earlier to the concerned workman of the present case. There could never be any equity with the case of the workman to that of the cases of his juniors as alleged and claimed by them.

18. Therefore considering the overall aspect of the matter I am of the confirmed view that the case of the claimant lacks merit and he could not be allowed any benefit as claimed by him in the present reference.

19. It is further held from the above discussions that the management has not breached any promotion policy.

20. Accordingly the reference is bound to be answered against the claimant and in favor of the opposite party holding that the claimant is not entitled for any relief pursuant to the present reference order.

RAM PARKASH, Presiding Officer

नई दिल्ली, 19 मार्च, 2012

का.आ. 1688.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैनेजमेंट ऑफ डिपार्टमेंट ऑफ पोस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, पुणे के पंचाट (संदर्भ संख्या 16/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-3-2012 को प्राप्त हुआ था।

[सं. एल-40011/17/2006-आईआर (डी.यू.)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 19th March, 2012

S.O. 1688.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 16/2007) of the Central Government Labour Court, Pune as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Post and their workman, which was received by the Central Government on 19-3-2012.

[No. L-40011/17/2006-IR (DU)]

RAMESH SINGH, Desk Officer

ANNEXURE
BEFORE M.S. BODHANKAR PRESIDING
OFFICER FIRST LABOUR COURT, PUNE

Ref. IDA. No. 16 of 2007

Between

The management of D/o Post Ist Party

AND

Their WorkmanIInd Party

AWARD

(Dated 6-1-12)

This is a reference made to this Court vide order No.L-40011/17/2006-IR(DU) dt. 31-1-07 by the Government of India/Bhart Sarkar, Ministry of Labour/Shram Mantralaya, New Delhi under clause (d) of sub section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act 1947 for adjudication over the following demand :

“Whether the action of the management of the Post Master General, Pune Region Post Office, Pune in terminating the services of their workman Shri Mahadeo Bajirao Wanare w.e.f. 10-2-2005 is legal and justified? If not, to what relief the workman is entitled to?”

The second party though called repeatedly, but absent and did not adduce any evidence despite framing of the issues on 10-2-11. It shows that the second party is not interested in proceeding with the reference. The reference therefore deserves to be answered in the negative for want of prosecution. It is accordingly answered in the negative.

M. S. BODHANKAR, Presiding Officer

नई दिल्ली, 20 अप्रैल, 2012

का.आ. 1689.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ मैसूर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलौर के पंचाट (संदर्भ संख्या 26/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 20-4-2012 को प्राप्त हुआ था।

[सं. एल-12012/95/2010-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 20th April, 2012

S.O. 1689.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 26/2011) of the Central Government Industrial Tribunal Labour-cum-Court Bangalore as shown in the Annexure in the Industrial Dispute between the management of State Bank

of Mysore and their workmen, received by the Central Government on 20-4-2012.

[No. L-12012/95/2010-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BANGALORE

Dated 9th April, 2012

PRESENT

SHRI S. N. NAVALGUND, Presiding Officer

C. R. No. 26/2011

I Party

Shri H. Thippeswamy,
 S/o Shri Honnurappa,
 R/o Manamanahatte Village,
 Challakere Taluk,
 Chitradurga

II Party

The Assistant General
 Manager III,
 State Bank of Mysore,
 Regional Office,
 No. 6-199, Mandipet,
 Davangere- 577001

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub section 2A of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has referred this dispute vide order No. L-12012/95/2010-IR(B-I) dated 30-5-2011 for adjudication on the following Schedule:

“Whether the action of the management of State Bank of Mysore, in non regularising Shri H. Thippeswamy S/o Shri Honnurappa in the services of Bank is legal and justified? To what relief the workman is entitled to?”

2. After receipt of the reference notices were issued to both the sides. On 24-8-2011 when the matter was called at Hubli Camp Shri N. Venkatesh Advocate filed Vakalat for Second party and suggest to post it at Bangalore submitting that Shri D.R.V. Bhat, Advocate from Bangalore may appear for first party workman. Accordingly the matter was posted at Bangalore on 30-8-2011 and on that day Shri D.R.V.Bhat, Advocate submitted that he has no instruction from first party to represent. Since the notice was duly served by RPAD to first party for appearance at Hubli on 24-8-2011 taking that he has no interest to appear and file claim statement the matter was posted for statement of second party to substantiate the action taken against the first party at Hubli Camp. Accordingly the statement of second party substantiating the action came to be filed on 28-12-2011 contending that the first party/worked between 1988 to October 1990 at its Jagalur Branch for 140 days between 1988 to October 1990, for 54½ days between

1-1-1992 to 31-12-1992, for 45½ days between 1-1-1993 to 31-12-1993, for 82½ days between 1-1-1994 to 31-12-1994; for 86 days between June 1995 to June 1996; for 89 days between 15-1-1997 to 9-9-1997; for 87 days between October 1998 to June 1999 and as in no year he worked continuously for 240 days the question of regularising his services or absorbing him in service does not arise. It is also contended the first approached this court after 12 years of discontinuing his services without any explanation for such a long delay as such on that count also his claim cannot entertained. Since the first party failed to enter his appearance and file claim statement and the second party was called upon to substantiate the contention taken in the statement filed on 28-12-2011, the affidavit of Shri V. Murali, Manager, State Bank of Mysore, Jagalur Branch came to be filed on 22-2-2012 reiterating the statement filed on 28-12-2011 and got exhibited four certificates issued by the Managers of Jagalur branch regarding the days worked by the first party as Ext. M1 to M4 respectively. Learned Counsel for the Second party also relied on following decisions in support of his contention.

1. AIR 1993 SC 2276-1993II LLJ 676 (SC)
Ratan Chandra Sammantha Vs. Union of India.
2. 2002 III LLJ 297 (Kar)
North West Karnataka Road Transport Corporation,
Hubli Vs. Abdul Salam.
3. AIR 2006 SC 1806 2006 SC cases (Vol.4)
1(5judges) Secretary, State of Karnataka Vs. Umadevi.
4. 2002(3) SC cases 25-JT 2002(2) SC 238 The
Range Forest Officer Vs. S.T. Hadimani.

3. Since the first party as already adverted to by me above, failed to appear and file claim statement and also left the evidence adduced by the second party by way of affidavit and documents uncontroverted/unchallenged by cross examination or leading any rebuttal evidence I have no reason to reject or disbelieve the same. Under the circumstances I am of the considered view that the first party miserably failed to substantiate his claim of regularization of his services, whereas, the second party justified its action in not regularising his services.

4. In the result I pass the following Award:

AWARD

The reference is rejected holding that the action of the management of State Bank of Mysore in non-regularising Shri H. Thippeswamy, S/o Shri Honnurappa in the services of Bank is legal and justified and he is not entitle for any benefit.

(Dictated to PA transcribed by her corrected and signed by me on 9-4-2012)

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 20 अप्रैल, 2012

का.आ. 1690.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 08/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 20-4-2012 को प्राप्त हुआ था।

[सं. एल-12012/417/2000-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 20th April, 2012

S.O. 1690.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 08/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 20-4-2012.

[No. L-12012/417/2000-IR (B-1)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/08/2001 Date: 27-03-2012.

Party No. 1 : The Asstt. General Manager,
State Bank of India, Industrial Finance
br. Ravinagar Square, Nagpur 440003

Versus

Party No. 2 : The Zonal Secretary,
State Bank Workers Organisation, 542,
Dr. Munje Marg, Congress Nagar,
Nagpur-440 012.

AWARD

(Dated: 27th March, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of State Bank of India and their workman Shri Pravin Sitaram Sapkal, for adjudication, as per letter No. L-12012/417/2000-IR (B-1) dated 17-01-2001, with the following schedule:-

"Whether the action of the management of S.B.I. through its Asst. General Manager, Nagpur in

disengaging Shri Pravın Sitaram Sapkal from services, is justified and will he be entitled for permanent employment in the Bank? If so, what relief the said workman entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the Union, "State Bank Workers Organisation" ("the union" in short) on behalf of the workman, Shri Pravın Sitaram Sapkal, ("the workman" in short), filed the statement of claim and the management of S.B.I. ("Party No. I" in short) filed its written statement.

The case of the workman as presented by the union is that the workman was appointed by party no. 1 in the subordinate cadre at its Industrial Finance Branch, Nagpur in the year 1996 and the services of the workman were terminated after the working hours of 13-6-1998 and prior to his appointment in 1996, the workman had worked with party no. 1 from 3-4-1990 to 28-7-1990 and also in the year 1991 and for 147 days in the year 1995. The further case of the union is that the workman was interviewed by the committee appointed by the State Bank of India for recruitment of subordinate cadre and he was selected in the interview and was kept in the waiting list for appointment and due to such selection by the interview committee, the workman was asked to work at Industrial Finance Branch and the workman worked for a period of 615 days and he also completed more than 240 days of work in the preceding 12 months of the date of his termination and as provision. of The Shops and Establishment Acts are applicable to the party no. 1, holidays and Sundays are to be included for the purpose of calculating one year of continuous service, as required under Section 25-B of the Act and in view of the completion of more than 240 days of work in a calendar year, provisions of Sections 25-B and 25-F of the Act are applicable regarding retrenchment of the workman and though the workman was appointed in a permanent vacancy, his name was deliberately not shown in the muster roll and the party no. 1 was paying wages to the workman through banker's cheque every week by calculating the wages @ Rs. 60 per day and payment for Sundays and holidays was not made and no bonus was also paid to the workman and the workman was working from 10.30 AM to 07.00 PM every day and was performing the duties of a permanent employee and in view of the provisions of Sastri Award and the service conditions of the Bank employees, the workman had already acquired the status of the permanent employee and the termination of the services of the workman w.e.f. 13-6-1998 was in fact a retrenchment, which was done without following the mandatory provisions of the Act and as such, the termination was bad in law and the action was illegal and is liable to be set aside. Prayer has been made by the union for the reinstatement of the workman in service with full back wages and all consequential benefits.

3. The party no. 1 in its written statement has pleaded inter-alia that due to administrative exigencies, the workman was engaged purely in temporary capacity as a casual daily wagger and his engagement was not continuous, but was intermittent and the disengagement of the workman was done, in view of the fact that he could not have been continued due to the various settlements entered into by the recognized unions of the bank and the State Bank of India, in regard to the absorption of the temporary employees. The further plea of the party no. 1 is that as per the settlements between the All India State Bank of India Staff Federation and the State Bank of India on 16-7-1988, 27-10-1988, 09-1-1991 and 30-7-1996 and in terms of the conciliation proceedings held on 30-7-1996, it was agreed that the panels of temporary employees and daily wages/casual employees will be kept alive upto 31st March, 1997 and the settlements are binding on the parties and so also on the workman, in view of the judgment of the Hon'able Apex Court reported in AIR 1995 SC-251 (Ram Pukar Singh Vs. Heavy Engineering Corporation) and in response to the said settlements, the bank gave an advertisement in the news paper calling upon all the eligible temporary employees to apply for permanent employment in the subordinate cadre, subject to certain norms as contained in the said settlement and the workman applied for absorption in the service of the bank and he was interviewed and was found successful in the interview and his name was kept in the waiting list at serial no. 28 (General) of 1992 and the panel prepared in pursuance of the settlements was lapsed on 31-03-1997 as per the terms of the said settlements and in view of the lapse of the waiting list, there was no question of absorption of the workman or any other temporary employee in service and the Government of India, Ministry of Finance, Dept. of Economic Affairs (Banking Division) vide letter dated 16-08-1990 addressed to the Chief Executives of all public sector banks asked to stop all temporary appointments and in such situations, if the bank would have allowed such temporary employment, then it would have been violation of the settlement, attracting penal provisions against the bank. It is also pleaded by the bank that the workman did not work for 240 days in any calendar year or in the preceding 12 calendar months from the date of his disengagement w.e.f. 9-08-1998 and the workman was appointed on daily wages basis temporarily by the branches, who had/have no authority to appoint any person in such category and such appointment was illegal, irregular and impermissible under the rule of the bank and the names of the permanent employees only appear in a muster roll and as the workman was neither engaged in permanent vacancy nor he was a permanent employee of the bank, there was no question of appearing of his name in the muster roll or payment of wages through regular salary sheet and wages had been paid to the workman for the days he had worked and bonus is paid only to the permanent employee of the bank, so there was no violation

of the provisions of the payment of bonus Act, due to non-payment of bonus to the workman and the workman was engaged for dusting and cleaning the premises and to do the miscellaneous work and the workman was never doing the duties of a permanent employee and the provisions of Section 25-F of the Act are not applicable and the workman is not entitled to any relief.

4. Besides documentary evidence, both the parties have led oral evidence in support of their respective claims. The workman has examined himself as a witness. One Shri Ashok Gulabrao Katulwar, the Manager (Credit & Operation), Industrial Finance Branch, Nagpur has been examined as a witness on behalf of the party no.1.

The workman in his examination-in-chief, which is on affidavit has reiterated the facts mentioned in the statement of claim. In his cross-examination, the workman has admitted that from 15-5-1997 to 13-6-1997, he worked for 28 days, he worked for 8 days from 9-8-1997 to 16-8-1997 and he did not work from 17-08-1997 to 21-9-1997 and though he worked for 10 to 15 days from 14-6-1998 to 8-8-1998, he did not mention about the same in the statement of claim. He has also admitted that wages was also being paid to him for the days he worked and he cannot say for how many days he worked between 9-8-1997 to 9-8-1998 and he had not calculated the days of work and he cannot say as to whether he worked for 175 days during the said period.

5. The witness for the management has also reiterated the facts mentioned in the written statement, in his examination-in-chief, which is also on affidavit. In his cross-examination, this witness has admitted that when the workman was terminated from services, he was not working in the Industrial Finance Branch.

6. At the time of argument, it was submitted by the learned advocate for the workman that the workman had completed 240 days of continuous service with the party no.1 and he had acquired the status of permanent employee, but still then his services were not regularized and before termination of his services, party no.1 did not follow the provisions of Section 25-F of the Act and as such, the termination was illegal and the workman is entitled for reinstatement in service and all back wages.

7. The learned advocate for the party no.1 submitted that the workman was engaged purely on casual, daily wages basis intermittently, due to exigencies of work and he had not completed 240 days of work in any calendar year or the preceding 12 months from the alleged date of termination of his services and as such, the provisions of Section 25-F of the Act are not applicable to the case of the workman. It was also submitted that the engagement of the workman was without following the due procedure of appointment and as such, his engagement was illegal and on that ground also the workman is not entitled for

reinstatement in service. In support of such contentions, the learned advocate for the party no. 1 relied on the decisions reported in AIR 2006- SC- 1806 (Secretary State of Karnatak Vs. Umadevi) and AIR 2006-SCW-452 (Workman of Bhurkunda Colliery Ltd. Vs. The Management of Bhurkunda Colliery)

8. It is the admitted case of the parties that in terms of the settlements entered into between the bank and the All India State Bank of India employees Association, the bank prepared a waiting list of the temporary and casual labourers for their absorption in the bank service and after necessary interview, the name of the workman was included in such a list. It is found from the documents (the copies of the settlements) that, such waiting list was to be lapsed on 31-3-1997. The waiting list having the name of the workman was also lapsed on 31-3-1997. It is also found that the appointment of the workman was not made in accordance with such waiting list.

The Hon'ble Apex Court in the decision reported in AIR 1997 SC-3091 (Syndicate bank Vs. Shankar Paul) have held that, "panel valid only for one year-Whatever conditional rights empanelled candidates have they come to an end on expiry of one year- Temporary employees cannot claim permanent absorption in service."

Applying the principles enunciated by the Hon 'ble Apex Court to the present case in hand, it is found that as the waiting list lapsed on 31-3-1997; the workman is not entitled to claim appointment or reinstatement in service on the basis of such list.

9. However, the main claim of the workman is that he was working with the party no. 1 from 1996 to 13-06-1998 and he had completed 240 days of work in the preceding 12 calendar months of 13-6-1998, but he was orally terminated from services on after the working hours of 13-6-1998, without compliance of the provisions of Section 25-F of the Act.

The party no.1 has denied the claim of the workman and has taken the plea that the workman did not complete 240 days of work in the preceding 12 months of 13-6-1998 and as such, there was no question of compliance of the provisions of Section 25- F of the Act.

10. Before entering into the arena of merit of the case, I think it apposite to mention here about the principles enunciated by the Hon'ble Apex Court regarding the application of provisions of Section 25- B and 25- F of the Act. The Hon'ble Apex Court, in the decision reported in AIR 1966 SC-75 (Employees, Digawadih Colliery Vs. Their workmen) have held that:-

"Though Section 25-F speaks of continuous service for not less than one year under the employer, if the workman has actually worked for 240 days during a period of 12 calendar months both the conditions are fulfilled.

The definition of "Continuous Service" need not be read into Section 25-B. The fiction converts service of 240 days in a period of twelve calendar months into continuous service for one complete year. The amended Section 25-B only consolidates the provisions of Section 25(B) and 2(ee) in one place, adding some other matters. The purport of the new provisions, however, is not different. In fact, the amendment 25-F of the principal Act by substituting in clause (b) the words "for every completed year of continuous service" has removed a discordance between the unamended Section 25 B and the unamended Cl. (b) of Section 25-F. No uninterrupted service is necessary if the total service is 240 days in a period of twelve calendar months either before the several changes or after these. The only change in the Act is that this service must be during a period of twelve calendar months preceding the date with reference to which calculation has to be made. The last amendment has now removed a vagueness which existed in the unamended Section 25- B".

11. In the decision reported in AIR 1981 SC-1253 (Mehar Lal Vs. M/s. Bharat Electronics Ltd.), the Hon'ble Apex Court have held that,

"Industrial Disputes Act (14 of 1947). Section 25- B (1) and (2)- Continuous service-Scope of sub-sections (1) and (2) is different, (words and phrases-Continuous Service)

Before a workman can complain of retrenchment being not in consonance with Section 25-F, he has to show that he has been in continuous service for not less than one year under that employer, who has retrenched him from service. Section 25- B as the dictionary clause for the expression "continuous". Both in principle and are precedent it must be held that Section 25-B (2) comprehends a situation where a workman to not in employment for a period of 12 calendar months, but has rendered for a period of 240 days within the period of 12 calendar months commencing and counting backwards from the relevant date, i.e. the date of retrenchment. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of Section 25-B and chapter V-A".

12. The Hon'ble Apex Court in the decision reported in AIR 2003 SC-38 (M/s. Essen Deinay Vs. Rajeew Kumar) has held that:

"Industrial Disputes Act (14 of 1947)- S.25-F, 10-Retrenchment compensation Termination of services without payment of -Dispute referred to Tribunal-Case of workman/claimant that he had worked for 240 days in a year preceding his termination- Claim denied by management-Onus lies upon claimant to show that he had in fact worked for 240 days in a year-In absence of proof of receipt of salary workman is not sufficient evidence to prove that he had worked for 240 days in a year preceding his termination."

So, it is clear from the principles enunciated by the Hon'ble Apex Court in the decisions mentioned above that for applicability of Section 25-F of the Act, it is necessary to prove that the workman worked for 240 days in preceding 12 calendar months commencing and counting backwards from the relevant date and the burden of such proof is upon the workman. So, keeping in view the settled principles enunciated by the Hon 'ble Apex Court, now, the present case at hand is to be considered.

13. The documents filed by the management including the statement of the working days of the workman during the preceding 12 calendar months from the date of his disengagement have been admitted into evidence and have been marked as Exts. M-I to M-VIII, on admission by the workman. The statement of the working days of the workman has been marked as Ext. M-I. On perusal of Ext. M-I, it is found that the workman had not worked for 240 days in the preceding 12 calendar months of 13-06-1998. The workman has filed the zerox copies of the Banker's cheque showing payment of wages to him by party no. 1, for the days he worked. Those documents also do not show that the workman had worked for 240 days in the preceding 12 calendar months of 13-06-1998.

From the evidence on record, it is found that the workman has failed to prove that he rendered service for 240 days commencing from 13-06-1998 and counting backward within a period of 12 calendar months. As the workman has failed to satisfy the eligibility qualifications prescribed in Section 25-F read with section 25-B of the Act, the provisions of Section 25-F of the Act are not applicable to his case. Hence, it is ordered:-

ORDER

The action of the management of S.B.I. through its Asst. General Manager, Nagpur in disengaging Shri Pravin Sitaram Sapkal from services, is justified. The workman is not entitled for permanent employment in the Bank. The workman is also not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 20 अप्रैल, 2012

का.आ. 1691.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 53/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 20-4-2012 को प्राप्त हुआ था।

[सं. एल-41012/11/2011-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 20th April, 2012

S.O. 1691.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 53/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the management of North Central Railway and their workmen, received by the Central Government on 20-4-2012.

[No. L-41012/11/2011-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 53 of 2011

Between

Sri Soney Lal,
Son of Sri Mulla,
Village Khanpur,
Post - Bhaupur,
Kanpur. U. P.

And

General Manager,
North Central Railway,
Allahabad.

AWARD

1. Central Government MoI, New Delhi, vide notification no. L-41012/11/2011-IR (B-1) dated 11-07-2011 has referred the following dispute for adjudication to this tribunal-

2. Whether the action of the management of North Central Railway in not considering the case of re-employment of Sri Soney Lal son of Sri Mulla while reemploying the others is legal and justified? To what relief the workman is entitled?

3. After receipt of reference order from the Ministry several notices were issued to the parties concerned to file their claim and counter claim. It is pertinent to mention here that it is for the workman who is required to file his claim petition but after service of notice from the tribunal upon him he neither appeared in person nor filed any claim petition in support of his claim.

4. It thus appears that the claimant is not interested in prosecuting his case. The tribunal is having no option but to hold that the claimant is not interested in prosecuting his case and the reference is bound to be answered in negative holding that the action of the management as referred to in the schedule of reference order is neither illegal nor unjustified.

5. Resultantly the claimant is not entitled to any

relief pursuant to the present claim petition and the reference is answered against him and in favour of the management.

RAM PARKASH, Presiding Officer

नई दिल्ली, 20 अप्रैल, 2012

का.आ. 1692.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 1/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 20-4-2012 को प्राप्त हुआ था।

[सं. एल-12012/97/2006-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 20th April, 2012

S.O. 1692.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the Management of State Bank of India and their workmen, received by the Central Government on 20-4-2012.

[No. L-12012/97/2006-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 3rd April, 2012

Present : A. N. JANARDANAN, Presiding Officer

Industrial Dispute No. 1/2007

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their Workman)

BETWEEN

Sri V. Thomas : 1st Party/Petitioner

Vs.

The Deputy General Manager : 2nd Party/Management
State Bank of India, Zonal Office
No. 2, Madhuram Complex
Dr. Ambedkar Road
Madurai

Appearance:

For the 1st Party/Petitioner : Sri L. Krishnamoorthy,
Authorised Representative

For the 2nd Party/
Management : Sri K. Chandrasekaran,
T. N. Siva Kumar

Authorized Representatives

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12012/97/2006-IR(B-I) dated 15-12-2006 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the penalty of Dismissal of Sri V. Thomas by the management of State Bank of India, Madurai is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 1/2007 and issued notices to both sides. Both sides entered appearance through their Authorized Representatives and filed their Claim and Counter statement as the case may be.

3. The averments in the Claim Statement briefly read as follows :

Petitioner while was working as Watchman at Kottar Branch under the Respondent was wrongfully dismissed from service on 25-1-2002. The petitioner as an Ex-Serviceman was strict in behaviour with his military discipline which was not liked and relished by Unions other than his and by the Branch Manager and the Cash Officer who were waiting for victimizing him. The call from Branch Manager Thiru Mariadasan and Cash Officer J. Selvaraj to do their personal and household works was declined by him but which were acceded to by TvI. D. Johnrose and Chinn Thambi, other watchmen, who in turn were given concessions and extra wages in the case of cleaning, repairing electrical appliance, etc. Petitioner informed this to the Branch Manager but with no result. He wrote again to the District Manager due to which ill-feelings were developed towards him, who decided to sack him. On 4-4-2000 at about 2.30 PM the Branch Manager called and shouted against the petitioner and questioned him about the removal of his cap to which he replied that it was due to sweating and he forgot to wear it after his mid-day meal. He was asked to give reply in writing. Branch Manager telephoned to Police and Police came at about 01.30 PM and produced him before Magistrate on 5-4-2000 at about 10.00 AM and he was prosecuted. On 6-4-2000 he was not permitted to work. He continued to report for work on subsequent days but on 12-4-2000 he was suspended of which order Tamil translation though asked for in 15-4-2000 letter was responded. He was asked for in 15-4-2000 letter was not responded. He was acquitted by the Magistrate on 19-12-2000 denying him to have consumed alcohol. By a memo he was alleged with 5 charges such as (i) failure to wear uniform in spite of directions and refusal to receive letter in that connection, (ii) abusing the Branch Manager who cautioned him to behave properly, (iii) possession of knife contravening security manual, (iv) being found under influence of alcohol while on duty on 4-4-2000 against security manual and (v) causing damage

to the image of bank by habitually threatening bank customers. Request for assistance of a lawyer was not allowed. Request in conducting enquiry in Tamil was not allowed. Enquiry Officer was biased in the enquiry in favour of the prosecution. Presenting Officer was permitted to put leading questions. Preliminary Investigation Report was allowed to be marked in spite of objection without applying mind. Petitioner was unable to understand enquiry proceedings held in Tamil and English. Charge is vague, petitioner is not examined before closing the enquiry. His request for Tamil version of the enquiry findings was not complied with. He was dismissed from service as per order dated 25-1-2002. In appeal allowing it only partly on 1-4-2002, dismissal was converted into removal. The charges were nothing but concocted with ulterior motives. Petitioner was not given fair opportunity to defend. Disciplinary proceedings were completed in total negation of principles of natural justice. Dismissal is illegal. Punishment is not justified. It is victimization. He is to be reinstated with back wages and all benefits.

4. Counter Statement contentions briefly read as follows :

Enquiry was conducted as per principles of natural justice with full opportunity to the petitioner fairly and properly. He was issued a Memo alleging 5 charges. Petitioner was acquitted in Criminal Case only on benefit of doubt. Petitioner was represented by an English knowing representative and thus he is not prejudiced. Petitioner cannot claim assistance of a lawyer as of right. Petitioner was given opportunity to cross-examine witnesses and examine his own witnesses and also to peruse relevant documents. The branch of the bank had been in a disturbed state on 4-4-2000 due to behaviour of the petitioner. For assaulting Armed Guard Sri D. John Rose on 31-1-1996 petitioner was charge sheeted and warned on 9-2-1998. There are instances of he being absent from duty without information causing inconvenience to others. The District Authorities and Police refused to include his name as retainer in Gun License done as a routine. The enquiry was held in Tamil. There is no bias in the enquiry. Petitioner did not raise the issue of bias during enquiry or any objection. Petitioner was not assured reconsideration or reinstatement in the Bank. Petitioner is guilty of serious misconduct. Claim is to be rejected.

5. During the enquiry representative of the petitioner submitted that the domestic enquiry held is not fair and proper and that the same is to be decided as a Preliminary Issue. Thus the said issue arose for consideration which was decided as per Order dated 31-3-2011 and it was held that the enquiry held is fair and proper.

6. When the matter stood for further proceeding no more evidence had been adduced on either side and both sides advanced their arguments. Written arguments were submitted on both sides.

7. Points for consideration are :

- (i) Whether the dismissal of Sri V. Thomas by the Management is legal and justified?
- (ii) If not to what relief the concerned workman is entitled?

8. Evidence consists of the oral evidence of WW1 and Ex.W1 to Ex.W17 on the petitioner's side and the oral evidence of MW1 and MW2 and Ex. M1 to Ex. M32 on the Respondent's side.

Points (i) & (ii)

9. Heard both sides. Perused the records, documents and evidence and the written arguments produced by both sides. It was argued on behalf of the petitioner that an act can be concluded as misconduct if it has been intentionally committed and again the acts shall be enumerated in the Standing Orders governing the relationship of the employer and the employee. If the acts are not codified the acts cannot be fished out by terming it as misconduct to be proceeded against the employee. The five charges levelled against the petitioner could be found to be not based on any Standing Orders. Again three charges out of the five could be based on Security Manual which cannot be construed as enumeration of the misconduct. If a letter is refused to be received by the workman the Bank Manager should have chosen to deliver the letter by other means/methods, and notice was pasted on the notice board. This charge is only to victimize the petitioner. There is no support by witnesses to prove that petitioner did not wear a uniform. Not-wearing of the security cap due to sweating does not mean that he has bypassed it forever. It is also not an enumerated charge to launch disciplinary action. The charge of petitioner having been under the influence of alcohol on 4-4-2000 is also not supported by evidence. In the Criminal Court trial also the same is not proved. Utterances of filthy language is also not proved. It is only by the Branch Manager, Accountant and Cash Officer, Sri Selvaraj some oral evidence is let in regarding use of filthy language by the petitioner out of 10 witnesses. Defence witnesses have denied petitioner having been drunk or having used the filthy language. That the petitioner despite instructions not to carry knife while on duty contravening the instructions of the Security Manual was found to possess it does not find support from most of the witnesses except a few according to whom petitioner was having small knife to cut the betel nut for "Paan" and is also devoid of proof. That the petitioner was in the habit of shouting, threatening customers is a vague allegation and is also not proved with sufficient evidence. No customer was examined. Petitioner is only a Watchman and not a Security Guard.

10. The contra arguments on behalf of the Respondent prominently projected are that the standard of proof required in domestic enquiry vis-a-vis criminal

case is different. The enquiry was conducted in Tamil only. The dismissal without notice from service was modified into removal from service and so on.

11. Reliance was placed by the representative of the petitioner on a number of decisions of the High Courts and Supreme Court which are given below :

- MANGAT RAI VS. PUNJAB ROAD TRANSPORT CORPORATION AND ANOTHER (1998-1-LLJ-294) wherein High Court of Punjab and Haryana held that in appropriate cases Labour Court and the Tribunal can substitute the punishment awarded by the employer with a lesser punishment if on an objective analysis of the facts of a given case it comes to the conclusion that the punishment awarded by the employer is unjust or shockingly disproportionate or unduly harsh.
- In GLAXO LABORATORIES (I) LTD. VS. LABOUR COURT, MEERUT AND OTHERS (1984-1-LLJ-16) Supreme Court held "that everything which is required to be prescribed has to be prescribed with precision and no argument can be entertained that something not prescribed can yet be taken into account as varying what is prescribed. In short it cannot be left to the vagaries of management to say ex-post facto that some acts of omission or commission nowhere found to be enumerated in the relevant standing order is not the less a misconduct not strictly falling within the enumerated misconduct in the relevant standing order but yet a misconduct for the purpose of imposing a penalty. Accordingly, the contention of Mr. Shanti Bhushan that some other act of misconduct which would per se be an act of misconduct though not enumerated in S.O. 22 can be punished under S.O. 23 must be rejected".
- In SRI RASIKLAL VAGHAJIBHAI PATEL VS. AHMEDABAD MUNICIPAL CORPORATION AND ANOTHER (1985-1-LLJ-527) Supreme Court held "unless an act or omission non-enumerated as misconduct either in the standing order or in the service regulation, it is not open to the employer to fish out some conduct as misconduct and punish the workmen even though the alleged misconduct would not be comprehended in any of the enumerated misconduct. It cannot be accepted that even if an act or omission does not fall in any of the enumerated misconduct, yet for the purpose of service regulations, it would none the less be a misconduct punishable as such".
- In RAMAKANT MISRA VS. STATE OF UP AND OTHERS (1982-LAB-IC-1790) Supreme

Court held "what has happened here. The appellant was employed since 1957. The alleged misconduct consisting of use of indiscreet or abusive or threatening language occurred on Nov. 18, 1971, meaning thereby that he had put in 14 years of service. Appellant was secretary of the Workmen's Union. The respondent management has not shown that there was any blameworthy conduct of the appellant during the period of 14 year's service he rendered prior to the date of misconduct and the misconduct consists of language indiscreet, improper or disclosing a threatening posture. When it is said that the language discloses a threatening posture it is the subjective conclusion or the person who hears the language because voice modulation of each person in the society differs and indiscreet, improper, abusive language may show lack of culture but merely the use of such language on one occasion unconnected with any subsequent positive action and not preceded by any blameworthy conduct cannot permit an extreme penalty of dismissal from service. Therefore, we are satisfied that the order of dismissal was not justified in the facts and circumstances of the case and the Court must interfere. Unfortunately, the Labour Court has completely misdirected itself by looking at the dates contrary to record and has landed itself in an unsustainable order. Therefore, we are required to interfere. 9. What ought to be the proper punishment in this case? In our opinion, in such a situation withholding of two increments with future effect will be more than adequate punishment for such a low paid employee".

— In VED PRAKASH GUPTA VS. M/S DELTON CABLE INDIA (P) LTD. (1984-LAB-IC-658) wherein Supreme Court held that "there is nothing on record to show that any previous adverse remark against the appellant had been taken into consideration by the management for awarding the extreme penalty of dismissal from service to the appellant even if he had in fact abused in filthy language Durg Singh and S.K. Bagga. We are therefore of the opinion that the punishment awarded to the appellant is shockingly disproportionate regard being had to the charge framed against him. We are also of the opinion that no responsible employer would ever impose in like circumstances the punishment of dismissal to the employee and that victimization or unfair labour practice could well be inferred from the conduct of the management in awarding the extreme

punishment of dismissal for a flimsy charge of abuse of some worker or officer of the management by the appellant within the premises of the factory. We therefore hold that the termination of the appellant's service is invalid and unsustainable in law, and that he is entitled to reinstatement with full back wages and other benefits including continuity of service. The appeal is allowed accordingly with costs quantified at Rs. 1,000. The writ petition is dismissed without costs".

12. On behalf of the Respondent reliance was placed on unreported decision of the Supreme Court in Civil Appeal No. 9933/2011 (THE DIVISIONAL CONTROLLER KSRTC VS. M.G. VITTAL RAO) wherein it is held "even if a person stood acquitted by a criminal court, domestic enquiry can be held, the reason being that the standard of proof required in a domestic enquiry and that in a criminal case are altogether different. In a criminal case, standard of proof required is beyond reasonable doubt while in a domestic enquiry it is the preponderance of probabilities that constitutes the test to be applied".

13. After having heard on the question of fairness and validity of the domestic enquiry as per order dated 31-3-2011 it was held that the enquiry held has been fair and proper. Therefore, the said question no longer looms large for consideration. Now what is relevant for consideration is whether the finding entered by the Enquiry Officer and punishment imposed viz. dismissal from service standing modified into removal from service by the Appellate Authority are proper and legal and also whether the punishment imposed is just and proper and not shockingly disproportionate to the gravity of the offence. I have already narrated above the pros and cons of the contentions on either side challenging the finding as to the misconduct committed by the workman and the punishment imposed, with reference to the respective decisions relied on by either side.

14. Though out of the five charges, none of which is an enumerated item of misconduct as per the Standing Orders, three of them are misconducts made mention of in the Security Manual as is admitted. Though petitioner is a Watchman and not a Security Guard, is he not bound by the conduct directed in the Security Manual while he is a watchman with duties more or less akin to that of a Security Guard? When Code of Conduct whether in the Standing Orders or in the Security Manual is meant for ensuring discipline, peace, good atmosphere and good behavior, and orderly conduct of affairs in the Bank or its premises by all concerned for the mere reason that they do not find mentioned as enumerated misconduct distinctly with the ordinal numeral as 1st, 2nd, 3rd, upto the last, etc. cannot be found to be a reason to hold that any acts degenerating from such a

directed pattern of behavior acts fall short of any misconduct though not specifically enumerated as such in the Standing Orders, Bipartite Settlements or Service Regulations, etc. inviting disciplinary action. Admittedly two of the misconducts have not even been included in Security Manual or any rules or regulations. A perusal of the enquiry proceedings with reference to the evidence shows that this is not a case of no evidence though it is argued that there is no sufficient evidence to conclude that the petitioner is guilty of all or any of the charges made against him. Failure to wear uniform and cap and in spite of directions and refusal to receive letter though may not be an all pervading act or conduct on the part of the petitioner, a stray or a few of such proved instances from the part of the petitioner are enough to attract his being arraigned in an action by the authority. Abusing the Branch Manager with filthy language also need not be a widespread uttering act from the part of the petitioner. It also needs to be in a stray instance if not in a few instances to attract impugning by the authority. Possession of knife contravening Security Manual though may be not an enumerated misconduct may still be misconduct if it is possessed for any offensive activity and not for cutting betel nuts. On this aspect it cannot be said that there is sufficient evidence, nay some evidence to show that it has been an offending act by the petitioner being a misconduct or otherwise a blameworthy conduct that emanated from the petitioner in the absence of any proof that the same resulted in any prejudice or harm to anybody. In view of the further fact appearing in the evidence that it was kept for cutting betel nuts as an item hung with the keychain, according to me, this item of charge cannot be said to be proved as a misconduct committed by the petitioner. Regarding the charge of being found under the influence of drink while on duty on 4-4-2000 in contravention of the Security Manual, I am led to the conclusion that the said charge also cannot be said to be proved with some evidence, say not with sufficient evidence. Regarding the finding in the Criminal Court, where the degree of proof is higher than that in an adjudicatory process in industrial adjudications, I cannot but say that the evidence adduced in the enquiry has not been of the nature of any material by way of some evidence so as to conclude that the petitioner has been drunk or is under the influence of drink. On this aspect the version of the supporting witnesses is that it is to presume that he has been drunk, which is not a legal evidence. Medical evidence as revealed from the finding of the Criminal Court shows that the petitioner has not been drunk or has not been under the influence of drink on 4-4-2000. Regarding causing damage to the image of Bank and habitually threatening bank customers there is no evidence with the necessary attribute and quality of some evidence to show that the petitioner caused damage to the Bank's image and habitually threatened bank's customers. These

allegations amounting to charges of misconduct at best show a general trend of accusation being levelled against the petitioner without any specifically serious events being there to be enumerated. This misconduct also cannot be said to be proved against the petitioner. So these three charges cannot be found proved against the petitioner. Regarding the earlier mentioned two charges, though they find support only from the aggrieved Branch Manager and two other Officers, so to say interested witnesses it cannot be said that they being not supported by more number of witnesses are apt to be incorrect disbelieving them. As already discussed by me above being stray instances, the same occurrence may not have been apt to be viewed by all witnesses at the same occasion. Failure to wear uniform at stray or a few instances casually when may not be offending still they become offending when it is defied while there is a direction to wear it and is apt to be a misconduct coupled with refusal to receive letter from the Manager which is directing him to do it when there was found a refusal while petitioner was orally demonstrated to do so. There is discernibly element of insubordination in such a conduct. The refusal to receive that letter cannot be said to be anything short of a misconduct though not be enumerated in the misconduct as such. The remedy in such cases cannot be discerned as one to drive the authority to resort to other modes of service of the letter upon the petitioner. Here the blameworthy conduct of the petitioner is not only the sheer refusal to get on hand the letter physically but the very obstinate, obdurate, illegal, and impertinent conduct of denial to accept it when tendered from a higher authority. So these two misconducts of the petitioner are to be held as proved. The finding of the Enquiry Officer is accordingly modified setting it aside on other charges and aspects.

15. Coming to the punishment I am of the considered view that the punishment is shockingly disproportionate to the gravity of the misconduct even if it be that the whole charges stand proved against him. With the finding modified by me as to the misconducts proved against him now he is guilty of two misconducts and they are not grave enough to warrant the capital punishment of dismissal, since reduced to removal from service. Therefore the same is liable to be set aside and the petitioner has to be punished with a lesser punishment than what was initially imposed on him.

16. By now, reportedly, the petitioner has attained superannuation. Hence he can no longer continue to work. The apt alternative would be that there be an order to reinstate him into service w.e.f. the date of removal by way of a paper arrangement order with 40% back wages, continuity of service and all other attendant benefits and allow him to superannuate with the residue or all superannuation benefits, if any payable and if not already extended to him. Let the forfeiture of the other 60% of back wages be the punishment to him for the misconduct

proved committed. Petitioner will also be entitled to interest @ 9% per annum on the said amount of back wages from today till date of realization.

17. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 3rd April, 2012)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner: WW 1, Sri V. Thomas

For the 2nd Party/ : MW1, Sri S. Renganathan
Management MW2, Sri P. Nagesh

Documents Marked

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	6-4-2000	Petitioner's letter to Respondent's Kottar Branch Manager
Ex.W2	8-4-2000	Petitioner's letter to Respondent's Kottar Branch Manager
Ex.W3	10-4-2000	Petitioner's letter to Respondent's Kottar Branch Manager
Ex.W4	12-4-2000	Respondent's order suspending the petitioner's service
Ex.W5	19-12-2000	Order of Hon'ble Special Judicial Magistrate, Nagercoil
Ex.W6	22-11-2000	Respondent's Charge Memo to Petitioner
Ex.W7	28-12-2000	Petitioner's letter to Respondent's Kottar Branch Manager
Ex.W8	2-1-2000	Petitioner's reply to Charge Memo
Ex.W9	9-4-2001	Enquiry Officer's notice to 26-4-2001
Ex.W10	30-4-2001	Enquiry Officer's letter to petitioner
Ex.W11	9-6-2001	Petitioner's letter to Enquiry Officer
Ex.W12	23-11-2001	Respondent's letter to petitioner with Enquiry Report
Ex.W13	26-11-2001	Petitioner's letter to Branch Manager
Ex.W14	14-12-2001	Petitioner's letter to Branch Manager
Ex.W15	26-12-2001	Petitioner's reply to Respondent's letter
Ex.W16	22-1-2002	Petitioner's letter in the personal hearing
Ex.W17	25-1-2002	Dismissal order of the Petitioner's service.

On the Management's side

Ex.No.	Date	Description
Ex.M 1	4-4-2000	Caution letter addressed to Shri V. Thomas

Ex.M 2	4-4-2000	Caution letter addressed to Shri V. Thomas
Ex.M 3	—	Duties and responsibilities of the Guards—relevant provisions of Security Manual of State Bank of India
Ex.M 4	—	Duty Book of Armed Guards
Ex.M 5	—	Discipline Book
Ex.M 6	6-12-1999	Kottar Branch Letter to AGM No. AGM.III-13-303 alongwith letters received from Armed Guards/ Watchmen
Ex.M 7	4-4-2000	Kottar Branch letter no. AGM.III-13-2002
Ex.M 8	18-4-2000	Report of Module Security Officer to the branch under cover of his letter
Ex.M 9	12-4-2000	Order of Suspension from AGM vide DIS.CON.46
Ex.M 10	28-8-1996	Letter L.Dis(I) 54407/96 from Dist. Collector, Kanyakumari District to the Branch Manager, Kottar Branch
Ex.M 11	10-4-2000	Kottar Branch letter to the AGM No. AGM.III-13-003
Ex.M 12	21-2-2000	Bill and Dr. Voucher related to purchase of cap, etc.
Ex.M 13	4-4-2000	Attendance Register
Ex.M 14	18-9-2000	Kottar Branch letter to Sri V. Thomas calling for explanation
Ex.M 15	21-11-2000	Charge Sheet issued to Sri V. Thomas Disc. Con. 699
Ex.M 16	2-1-2001	Explanation from Shri V. Thomas against the Charge Sheet
Ex.M 17	23-11-2001	Disciplinary Authority's forwarding the enquiry officer's findings and proceedings to Sri V. Thomas
Ex.M 18	11-12-2001	Disciplinary Authority's
Ex.M 19	26-12-2001	Explanation of Sri V. Thomas against the Enquiry Officer's report
Ex.M 20	7-1-2002	Disciplinary Authority's letter to Shri V. Thomas for Personal hearing against the proposed punishment
Ex.M 21	22-1-2002	Submission of Sri V. Thomas against the proposed punishment in personal hearing before the Disciplinary Authority
Ex.M 22	25-1-2002	Dismissal order of Disciplinary Authority No. Dis.Con 937
Ex.M 23	7-3-2002	Appeal to the Appellate Authority by Sri V. Thomas
Ex.M 24	14-3-2002	Letter of Appellate Authority offering personal hearing to Sri V. Thomas

- Ex.M 25 1-4-2002 Removal order by the Appellate Authority No. Dis.Con.7
- Ex.M 26 19-12-2000 Acquittal Order.
- Ex.M 27 — Minutes of proceedings of disciplinary proceedings
- Ex.M 28 3-10-2000 Petitioner letter seeking the time for submission of explanation against the Branch Manager, Kottar Branch Letter No. Br.30 dated 18-9-2000
- Ex.M 29 11-1-2001 Letter of the Bank to the Petitioner to conduct an enquiry into the charges
- Ex.M 30 10-12-2001 Petitioner letter seeking the time for submission of explanation against the Disciplinary Authority's
- Ex.M 30 10-12-2001 letter dated 23-11-2001 forwarding the Enquiry Officer's findings and proceedings to the Petitioner
- Ex.M 31 9-2-1998 Copy Order of punishment of warning
- Ex.M 32 23-6-1999 Copy of Order of caution imposed upon the petitioner

नई दिल्ली, 23 अप्रैल, 2012

का.आ. 1693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बिकानेर एण्ड जयपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 14/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 23-4-2012 को प्राप्त हुआ था।

[सं. एल-12012/82/2003-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 23rd April, 2012

S.O. 1693.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2004) of the Central Govt. Indus. Tribunal-cum-Labour Court, Kanpur (U.P.) as shown in the Annexure, in the industrial dispute between the management of State Bank of Bikaner & Jaipur and their workmen, received by the Central Government on 23-4-2012

[No. L-12012/82/2003-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR
Industrial Dispute No. 14 of 2004

Between—

Sri Ved Parkash,
S/o Sri Nand Lal Srivastava,
142/10 H. N. Shastri Nagar,
Kanpur.

And

General Manager (Operation),
State Bank of Bikaner & Jaipur,
Head Office Tilak Marg,
Jaipur

Award

1. Central Government MoI New Delhi. vide notification No. L-12012/82/2003 IR (B-1) dated 20-2-2004 has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Bikaner & Jaipur vide its Manager in terminating the services of workman Sri Ved Parkash with effect from 12-4-1983 is justified? If not to what relief the workman concerned is entitled?

3. In the instant case after exchange of the pleadings between the parties several dates were given to the workman concerned to adduce his evidence and to file documentary evidence but unfortunately he neither filed his oral evidence or documentary evidence in support of his pleadings. Considering the factual position of the case the authorised representative for the opposite party has also submitted before the tribunal that when there is no evidence from the side of the workman, management also does not want to file any evidence in the case.

4. Thus virtually it is a case where the workman fails in his claim for want of evidence and the reference is bound to be answered in negative against the workman and in favour of the opposite party.

5. Resultantly the claimant is not entitled to any relief pursuant to the present claim petition and the reference is answered against him and in favour of the management.

RAM PARKASH, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2012

का.आ. 1694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 36/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 23-4-2012 को प्राप्त हुआ था।

[सं. एल-41012/36/2004-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 23rd April, 2012

S.O. 1694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 36/2004) of the Kanpur (U.P.) as shown in the Annexure, in the industrial dispute between the management of North Central Railway and their workmen, received by the Central Government on 23-4-2012

[No. L-41012/36/2004-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE**BEFORE SRI RAM PARKASH, HJS, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR****Industrial Dispute No. 36 of 2004****Between—**

Sri P. K. Sharma,
S/o of Sri Ram Saran Sharma,
C/o O.P. Dubey, Mohlla Natwa,
Ahran Basti,
District Mirzapur, U.P.

And

The General Manager,
North Central Railway, Allahabad.

AWARD

1. Central Government MOL, New Delhi, vide notification no.L-41012/36/2004/IR B-1 dated 10-6-2004, has referred the following dispute for adjudication to this tribunal-

2. Whether the action of the management of North Central Railway through its Divisional Electrical Engineer (TRD) Tundla in imposing upon Sri P. K. Sharma son of Sri R. S. Sharma a penalty of removal from service with effect from 10-6-2003 (a.n.) is justified? If not what relief the workman is entitled for?

3. Brief facts are-

4. It is alleged by the claimant Sri P. K. Sharma, that he was appointed in class III post group "C" employee grade III pay scale Rs.260-400 = 3050-4590 (RPS) by Railway Recruitment Board Allahabad and was so sent to General Manager Personnel NR New Delhi who appointed the claimant as Lineman Grade III in traction department of Allahabad Division and so sent the applicant DRM NR Allahabad, now known as DRM NCR Allahabad for posting under him. DRM NR Allahabad sent the claimant to Sr. Divisional Electrical Engineer (for short Sr.DEE) TRD for further posting on job and the claimant was working under DEE (TRD) Aligarh Junction as lineman Grade III. At that time the claimant was injured on duty on 17-10-2000. Annexure 1 and 2 are the papers in relation to the injury on duty. During treatment the claimant was sent to Central Hospital New Delhi for further treatment, the relevant paper is annexure III. Chief Medical Suptd., NR Allahabad after getting a medical board constituted, got the claimant examined and vide letter dated 27-4-2001 recommended for absorption in alternative category, the relevant paper is annexure IV. Consequent to recommendation for alternative job the claimant was directed to the office opposite party no.2 that is personnel branch for alternative appointment as a practice and was kept waiting for orders therein the office of the opposite party no.2, but under law and rules was to be paid with monthly wages which were not paid so the claimant represented for the same. But due to ill will with Section

Engineer (OHE) Khurja the officers concerned of the opposite party instead making the payment of monthly wages issued memorandum of charges for unauthorized absence, which is annexure V. Opposite party no.2, DEE Tundla, who was not competent in the matter issued imposition of penalty order removing the claimant from service with effect from 10-6-2003, which is annexure VI. Claimant submitted an appeal which is annexure VII, but his appeal was rejected illegally and against the provision of statutory rules and maintained the punishment order even without granting personal hearing which is annexure VIII. Thereafter the claimant filed a motion of revision which is paper no. IX, thereafter he moved before the conciliation officer and on the basis of the said report present reference is before this Tribunal. On the basis of above it has been prayed that the whole action of the opposite party against the claimant in the name of disciplinary action be set aside and the claimant be held entitled for the relief of reinstatement in service with full back wages and continuity of service.

5. Apart from the above the action of the opposite party has also been challenged on the following ground.

6. Because the applicant was present on duty and the proceedings have been conducted by the concerned officers without making payment of wages; because the authorities of punishment have taken into consideration letter number EM-2/TRD/PK Sharma/03 dated 3-3-03 which was not to be taken into consideration being beyond the purview of the inquiry and was not an evidence but an opinion only; because the punishment is based on matter/evidence which was taken on the back of the applicant; because both the punishment authorities were incompetent in the matter so the total proceedings of the inquiry and the punishment are void abinitio and non est in the eye of law.

7. Opposite party has filed the written statement wherein the entire claim of the claimant has been denied alleging that the aversion made by the claimant are wrong and misconceived. Actually the claimant was initially appointed as sub khalasi with effect from 28-4-78 under CDFO/OHE/ALJN. After due time he was promoted to the post of lineman with effect from 18-5-86 in the grade of 950-1500 in class III post while working as lineman grade III under SEE Khurja he was booked on duty for measuring implantation on 17-10-2000. He claimed that he was injured on duty which is wrong. He was not hurt/injured on duty. As such railway administration did not treat him as hurt on duty. Medical report dated 27-4-2001 reveals that he was treated for mental illness. The letter of the medical superintendent reveals that in view of the medical illness the claimant was not found fit to perform the duties of lineman hence he was de-categorized. It is also stated that a supernumary post was created for him till final absorption of the claimant. All the dues of the claimant have been paid to him. The correct fact is that

during the course of inspection the General Manager found the claimant absenting himself from place of posting with effect from 22-10-01, without any intimation and also left station without permission, as such the claimant was issued a charge sheet on standard form No.5 which as duly received by the claimant. There after proper and fair inquiry was held in which the charges levelled against the claimant were fully proved. The competent disciplinary authority has passed the order of punishment by removing him from service, he is quite competent to pass such orders as per D&A Rules as such the order of removal from service of Sri Sharma is quite legal just and proper. It is also stated that competent appellate authority after considering all facts has rightly legally and justly had rejected the appeal. The claimant has never asked or requested for personal hearing in the appeal as such the question of giving personal hearing in the appeal does not arise. The order of the appellate authority is fully legal and just. The reviewing authority has also considered the revision appeal of the claimant who did not find genuine and sufficient ground as such the revision was rejected. It is also stated by the opposite party that the grounds taken in the claim petition with regard to the letter dated 3-3-03 is absolutely wrong and baseless. It is also stated that it is wrong to say that the evidence or the matter was taken on the back of the claimant. Lastly it is prayed that the claim of the petitioner lacks merit and is liable to be rejected without grant of any relief as prayed for by the petitioner.

8. No rejoinder has been filed by the claimant.

9. Opposite party has filed complete set of inquiry proceedings right from the stage of issuance of charge sheet till passing of final order and appellate order including revision order like ix paper vide list 4-1-06. These are the photocopies of which include charge sheet, paper of inquiry proceedings, inquiry report, and order dated 10-6-03, letter dated 11-2-04 and appellate order. They have also filed all the original vide list 11-5-06, which include charge sheet GM Inspection Report 5 pages, letter dated 30-12-01, inquiry proceedings in 54 pages, inquiry report in 8 pages, punishment order in 4 pages, order dated 11-2-04 and appellate order. They have also filed the service book in original and have also filed appointment letter when he was recruited for the post of khalasi and promotion letter group C post.

10. Both the parties have adduced oral evidence also.

11. Claimant has adduced himself as W.W.1 P K Sharma. Opposite party has adduced M.W.1 Sri S P Sharma retired SEE.

12. I have heard the arguments of both the parties at length and have also perused documentary as well as oral evidence carefully.

13. It has been contended by the opposite party that the claimant was not directly recruited in Group C

Category by the General Manager. The claimant has wrongly placed the fact in his claim statement, whereas the claimant was recruited as a sub Khalasi with effect from 28-4-78. Later on in due time he was promoted to the post of Lineman with effect from 18-5-86 in the grade of 950-1500 in group C. In this respect the original service record of the claimant has been filed by the opposite party. I have examined his service record. It has been found that he was initially recruited as sub khalasi. During argument this fact has not been refuted by the claimant himself. It is also a fact that he was not directly recruited in group C category but was promoted as a Trainee Lineman in the Grade of 260-400. This order was passed by the APO. The next order passed by the APO is that the claimant promoted as Lineman in grade 950-1500 with effect from 18-5-86. This order was also passed by the APO, therefore, under these circumstances the APO is the promoting authority/appointing authority of the claimant. Therefore, the contention of the claimant that he was directly recruited by the Railway Recruitment Board and the General Manager would be his appointing authority does not find force and therefore, is not tenable in the eye of law. The claimant has admitted that there is provision of delegation of powers, wherein the General Manager could delegate his power for appointment of group D and C Posts this fact has also not been disputed by the claimant.

14. Now the contention of the claimant is that even power of appointment may be delegated by the General Manager but, power of imposing punishment remains with the General Manager, therefore, under these circumstances the claimant has challenged the competency and authority of the disciplinary authority.

15. Here in the present case order of imposing of penalty under rule 6 (7) to (9) of Railway Servants Discipline and Appeal Rules 1968 has been passed by Mandai Vidyut Abhiyanta Northern Central Railway, Tundla. I have examined this order. First of all I would like to say that it is a speaking order.

16. Now it is to be seen whether he is the competent disciplinary authority or not. Opposite party has filed the service book as well as appointment letter for the post of Khalasi as well as when the claimant was empanelled for promotion from Class IV to Class III and this letter is dated Feb-1985. These facts have not been disputed by the claimant. His name falls in this notice. This notice has been issued by DPO NR Allahabad. Therefore, DPO NR Allahabad is the appointing authority of the claimant.

17. Now the claimant has placed reliance upon a decision 1988(6) Administrative Tribunal Cases 675, Gafoor Miyan Versus Director & 1991 SCC (L&S) 355 Scientific Advisor to the Ministry of Defence versus S. Denial and another's.

18. Whereas the opposite party has placed reliance upon a decision of the Hon'ble Apex Court which is as under—

(1995) 6 SCC 45 Union of India and Others versus N V Pahaneedharan.

19. This case also relates to the service law of the railway employee and in this case also the same plea was taken by the employee that DRM/DEE who are having the same powers cannot be the competent officer to impose the penalty. In this case also the Hon'ble Apex Court has considered the decision of 1991 (15) Administrative Tribunal Cases 799 S Denial and another referred above.

20. The Hon'ble Apex Court found that in this decision the only contention raised before the CAT was that the DRM was not the appointing authority therefore, not competent to impose the punishment of removal from service. That found favour with the tribunal. Accordingly the order of removal of service was set aside by the tribunal vide its order. But the Hon'ble Apex Court respectfully held and found that the controversy is no longer res-integra. In scientific advisor to the Ministry of Defence versus S Denial (*supra*) a bench of this court interperated the rules in a common judgment. On a reading of rule 2(a) and rule 9 of Railway Servant (D&A) Rules 1968, it was held that it would be impossible for the President to deal with all the disciplinary matters of the Government employees. Therefore, delegation of appointment power was made to the General Manager and Disciplinary powers were delegated to the Divisional Managers. The General Manager is not the delegator. Consequently, the doctrine that a delegator cannot further delegate his powers to the delegate has no application. As a result it was held that the delegation of power to impose appropriate punishment is permissible. Since the ratio squarely covers the point of controversy we are of the view that the order of the tribunal is clearly illegal. Therefore, the appeal of the Union of India is allowed.

21. Similarly in a decision of a CAT Original Application No.1263 of 2007, Allahabad, dated 30 September, 2011 between Suraj Prasad Tripathi versus Union of India, the same controversy was raised before the CAT also wherein all the rules relating to the disciplinary actions against railway servants were considered. In this case it was also contended by the applicant that the DRM is not the competent authority to initiate departmental action against a railway servant. It was found that if the power to make the appointment has been delegated to the subordinate authority then said authority is competent to initiate disciplinary proceedings under rule. It has also been found that the appointing authority in relation to the railway servant has also been defined in the said rule and rule (2) (1) a postulate—In this rules unless the context otherwise requires—

- (a) Appointing authority in relation to railway servant means the authority empowered to make appointment to the service of which

the railway servant is, for the time being, a member or to the grade of service in which the railway servant is for the time being included or—

- (b) The authority empowered to make appointment to the post which the railway servant for the time being holds, or
(c) The authority which appointed the railway servant to such service grade or post as the case may be, or
(d) Where the railway servant to any grade in that service or that post—
Whichever authority is the highest authority.

22. Therefore, considering all the facts circumstances of the case and decidioris laid down by the Hon'ble Supreme Court, referred above, appointing authority is also the disciplinary authority and can very well impose punishment as provided in the Discipline and Appeal Rule 1968.

23. In such circumstances the decision referred by the Claimant of Gafoor Miyan's case does not find favor. The contention of the claimants authorized representative that the judgment of the Hon'ble Apex Court, referred above Union of India and Others NV Panceedharan is judgment in percurrium is not tenable.

24. In the present case the appeal; has been heard by Senior DEEI who has passed speaking order paper No. 14/79-80. Against the rejection of appeal the claimant has also filed a revision petitioner which is paper No. 14/77-78 which has been heard by ADRM. This has also been rejected by a speaking order.

25. Therefore, there is no force in the contention of the claimant that the punishment order as well as appellate order has been passed by incompetent officers.

26. Much stress has been given by the claimant only on this point though certain other points have been referred. They have not mainly challenged the fairness of the inquiry.

27. It has also been contended that the appointment of inquiry officer was not passed by a competent officer. According to the claimant appointment of inquiry officer should have been made by the General Manager. But as discussed above the disciplinary authority in the present case is DEE and the appointment has been made by him so there is no force in the contention of the claimant that the appointment of the inquiry officer has been made by a incompetent officer.

28. It is also contended that the appointment of the inquiry officer was made by the disciplinary authority before the submission of the reply by the delinquent officer before him. It is argued that he has passed the order which a closed mind. I have examined this plea also.

29. As I have already said the letter relating to the appointment of EO is not on the file. For a moment even if it is considered that the appointment of inquiry officer

was made by the disciplinary authority before the submission of the reply, I would like to say according to SF 5 time was granted to the employee to inspect the documents and say if he wants to make any submission against the charges after examining the documents. Now it will be seen whether it was done with any malice intention or a closed mind by the disciplinary authority or it may be simple irregularity, No such malice has been imputed by the claimant and there does not appear to be any malice in the mind of disciplinary authority from the record available on the file that he had acted with closed mind or with mala-fide intention against the delinquent in appointing inquiry officer.

30. Considering the above point as contended on behalf of the claimant since he has not been able to prove that the disciplinary authority acted in a prejudice manner and even if it is considered for a moment then it will be considered mere irregularity and not illegality in the absence of the reply of the delinquent employee.

31. In the present case the employee has been found absent un-authorizedly since 22-10-2001 till the issuance of the charge sheet 7-1-2002. Even he was found absent during the inspection made by the General Manager. It is contended that full and fair and impartial inquiry was conducted where the claimant as well as his defense representative participated from the beginning, whatever documents were required by the DR from the initial stage they have been allowed, every witness has been cross examined, opportunity to produce evidence to the delinquent employee was fairly given.

32. I have examined the report of the inquiry officer he has conducted a detailed inquiry and submitted his report which shows that full and fair opportunity has been given to the employee, there does not appear to be any bias committed by the inquiry officer.

33. There is one more contention by the claimant that a letter dated 3-3-03 which is paper no.12/66 has been considered by the disciplinary authority on the back of the claimant.

34. It is contended by the opposite party that this letter has not been considered on the back of the claimant. The fact is that after the conclusion of the inquiry when the disciplinary authority sent the finding of the inquiry officer to the employee concerned for submission then the employee submitted a false letter claiming to be a letter of the office showing him to be "waiting in order." For the sake of precaution the disciplinary authority got verified the authenticity of this letter and this letter dated 3-3-03 is in the same reference.

35. The authenticity of the letter where in the claimant has claimed that he was waiting for order during the period 4-5-01 to 27-1-2002 was found fictitious as mentioned clearly as mentioned in letter no.12/66 issued by Mandal Rail Prabandhak, NR, Allahabad.

36. It is argued by the opposite party that the claimant was playing hide and seek and if his claim was

that he was kept for waiting in order and a letter in this regard was issued to him by a competent officer, then he should have placed that letter in the beginning of the inquiry before the inquiry officer. Having failed to do so by the claimant, I am not inclined to believe the contention of the claimant for the reasons that had there been any truth in the contention of the claimant he should have filed the order of the opposite party on the file which speaks that the claimant has been kept in waiting for order of his posting. But he has not filed any such documents before this tribunal. Therefore, the contention of the claimant in this regards fails being devoid of merit and no cognizance of the same can be taken at this belated stage. Under the aforesaid circumstances of the case it is very difficult for the tribunal to conclude that letter 3-3-03 has been considered by the disciplinary authority behind the back of his.

37. Having considered entire factual and legal aspect of the case in the above manner it is held that the inquiry held against the delinquent employee by the employer is neither illegal nor unjust. It is further held that there is no illegality in appointing inquiry officer and also that there is further no illegality in passing the order imposing penalty on the delinquent employee and that there is further no illegality in deciding the appeal of the claimant by the appellate authority. Consequently taking cumulative effect of the above view it is held that the claimant is not entitled for any relief and the reference is bound to be answered against the claimant and in favor of the opposite party.

38. Reference is therefore, answered against the applicant/claimant and in favor of the opposite party.

RAM PARKASH, Presiding Officer

नई दिल्ली, 23 अप्रैल, 2012

का.आ. 1695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 84/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-2012 को प्राप्त हुआ था।

[सं. एल-41012/328/2003-आईआर(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 23rd April, 2012

S.O. 1695.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 84/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Northern Railway, and their workmen, received by the Central Government on 23-4-2012.

[No. L-41012/328/2003-IR (B-1)]

RAMESH SINGH, Desk Officer

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL -CUM- LABOUR COURT
LUCKNOW

PRESENT

Dr. Manju Nigam, Presiding Officer

I.D. No. 84/2004

Ref. No. L-41 012/328/2003-IR (B-I) dated: 13-5-2004

BETWEEN

The Divisional Organization Secretary
 Uttar Railway Karamchari Union,
 96/196, Old Ganesh Ganj,
 Lucknow
 (Espousing cause of Shri Nand Lal)

AND

Senior Signal & Telecommunication Engineer (Const.)
 Northern Railway
 R.R. Complex, Charbagh
 Lucknow

AWARD

1. By order No. L-41012/328/2003-IR (B-1) dated : 13-5-2004 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Divisional Organization Secretary, Uttar Railway Karamchari Union, 96/196, Old Ganesh Ganj, Lucknow and Senior Signal & Telecommunication Engineer (Const.), Northern Railway, R.R. Complex, Charbagh, Lucknow for adjudication.

2. The reference under adjudication is :

“Kya Uttar Railway Prashashan Dwara casual khalasi Shrimik Shri Nand Lal Putra Shri Jaganandan Gram Bangawan, Post Martinganj, Jila Azamgarh ko danank 14-1-76 se asthai hasisiat Pradan karne se vanchit Rakhana tatha Danank 12-4-78 se bina vidik prakiria sunishchit kiye naukari se nikaal diya jana uchit thatha nyyasangat hai? Yadi nahi to karmkaar kis anuthosh ka adhikaary hai?”

3. The case of the workman's union, in brief, is that the workman Nand Lal was engaged as casual Khalasi on 8-8-75 under the Chief Signal Inspector (Construction), Northern Railway, Lucknow, without any appointment letter and he worked as such continuously upto 11-4-78 for 695 days. It has been submitted by the workman's union that the workman had been given casual labour card, which carried details of working days, duly attested by the Chief Signal Inspector (Construction). It has been alleged by the workman's union that the workman worked for more than 157 days from the date of his engagement i.e. 8-8-75 to 14-1-76 and became entitled to grant of temporary status, automatically, according to Rule 2501 to 2505 of the Indian

Railway Establishment Manual; but he was denied of the same; whereas other workmen, junior to the workman were provided said benefit. It has further alleged that the services of the workman had been terminated w.e.f. 12-4-78 orally, without complying with the provisions contained in the Section 25 F of the I.D. Act, 1947 as the workman had completed 240 days in a year and also, that it violated provisions contained in Rule 149 (2) of the Railway Establishment Code/Manual for not serving notice to the workman before retrenchment as the workman had worked for 120 days in four months.

4. The workman's union has submitted that the workman endeavored for reinstatement and accordingly, he was re-engaged w.e.f. 7-3-79 and instead of giving him temporary status from 14-1-76 terminated on 14-4-79 for non-availability of work. It has further submitted that the workman requested the competent authorities for several times for reinstatement and also made written representations through post but all in vain. Accordingly, the workman's union has prayed that the action of the management of the railways in not giving him temporary status from 14-1-76 and terminating his services from 12-4-78 be declared illegal and the workman be given temporary status w.e.f. 14-1-76 and he be reinstated from 12-4-78.

5. The management of the railways has denied the claim of workman's union by filing its written statement wherein it has submitted that it is not possible for it to verify the engagement of the workman on 8-8-75 and his continuous working under Chief Signal Inspector (Const). Lucknow for the reason that the case is more than 29 years old. It has further submitted that the duration of engagement in respect of workman is baseless as the casual labours are engaged for the work of casual nature for a specific period and no casual labour card, as claimed by the workman, has been recorded by the office. The management has specifically denied the allegation of the workman's union that the provisions of Section 25 F was not followed in his case and has submitted that when it is not established as to when he was engaged and duration of his work, then the provisions of Section 25 F of the I.D. Act are not attracted in the union's case. It has also submitted that the workman's union has not come forward with any documentary evidence to substantiate his entitlement for temporary status and accordingly, has prayed that the claim of the workman's union be rejected, being stale one, without any relief to the workman concerned.

6. The workman has filed its rejoined; wherein he has submitted that there is no provision in I.D. Act, 1947, which debars the party from raising an industrial dispute on the basis of delay and a party to the industrial dispute is free to raise the same at any time. The rest is nothing but reiteration of the averments already made in the statement of claim.

7. The workman's union examined workman in support of its claim; whereas the management examined Shri Anil Kumar Bajpai, JE (Signal/Project) to substantiate its version. The parties forwarded oral arguments.

8. Heard representatives of the parties and perused entire evidence on record.

9. It is the case of the workman's union that the workman was engaged as casual Khalasi on 8-8-75 without any appointment letter and he worked as such continuously upto 11-4-78 for 695 days and his services have been terminated w.e.f. 12-4-78 orally, without complying with the provisions contained in the Section 25 F of the I.D. Act, 1947 in as much as he was not given temporary status after working for more than 120 days continuously in four months in violation to Rule 2501 to 2505 of the Indian Railway Establishment Manual. The workman's union has filed photocopy of certain documents in support of his claim with his list of documents dated 21-7-2006, paper No. C-20, which includes following documents:

- (i) Casual labour card, paper No. C-21 to 21.4.
- (ii) Northern Railway's serial No. 8952, paper No. C-22.
- (iii) G.M's letter dated - .12.95, paper No. C- 23 to 23/2.
- (iv) Railway Board's letter dated 11-12-96, paper No. C- 24.
- (v) G M's letter dated 24-12-96 & 17-1-77, paper No. C-25 to 27.
- (vi) Working days certificate issued by SSE (Signal)/Const. dated 24-6-2003, paper No. C-28.
- (vii) Paper dated 23-6-2003 containing particulars of the workman, paper No. C-29.
- (viii) Representation dated 13-1-90 of the workman, paper No. C-30.
- (ix) Representation dated 10-9-92 of the workman, paper No. C-31.
- (x) Representation dated 12-1-93 of the workman, paper No. C-32.
- (xi) Representation dated 16-12-93 of the workman, paper No. C-33.
- (xii) Representation dated 22-8-94 of the workman, paper No. C-34.
- (xiii) Representation dated 8-7-95 of the workman, paper No. C-35. (xiv) Representation dated NIL the workman, paper No. C-36.
- (xv) Representation dated 2-2-97 of the workman, paper No. C-37.
- (xvi) Representation dated 20-8-98 of the workman, paper No. C-38.

(xvii) Representation dated 10-11-99 of the workman, paper No. C-39.

The workman's union has not filed any appointment termination letter his original casual labour card.

10. Per contra, the case of the management is primarily based on the issue of delay. It has specifically submitted that since the case is more than 29 years old, it is not possible for the management to verify the engagement/working of the workman under Chief Signal Inspector (Const), Lucknow and has specifically denied the maintenance of any Casual Labour Card by the office. The management has relied on photocopy of following documents in support of their pleadings:

- (i) Ministry of Labour's letter dated 7-6-2004, rejecting reference in r/o Shri Inderbahadur, paper No. 9/3.
- (ii) Ministry of Labour's letter dated 7-6-2004, rejecting reference in r/o Shri Rajdhari, paper No. 9/4.
- (iii) Ministry of Labour's letter dated 18-10-2004, rejecting reference in r/o Shri Ram Sagar, paper No. 9/5.
- (iv) Letter dated 29-7-2003 addressed to ALC (C), Lucknow, paper No. 9/6 & 9/7.
- (v) Award dated 01-5-98 in I.D. No. 122/1995 of CGIT-cum-Labour Court, Kanpur, paper No. 9/8.
- (vi) Order dated 19-5-2000 in O.A. No. 208/99 of Hon'ble CAT, Principal Bench, New Delhi, paper No. 9/9 to 9/24.
- (vii) Letter of SSE (Signal)/Const, Lucknow, addressed to Sr. Divisional Engineer/Signal, NR, Lucknow in respect of workman, paper No. 9/25.
- (viii) Details of working in respect of workman, paper No. 9/26.

11. The workman's union has examined workman, who has stated on oath that he was recruited as Khalasi on 8-8-75, without any written order, in Signal (Const) Department which was working at that time; and was disengaged on 12-4-78 without any notice or compensation. He further stated that Casual Labour Card was maintained and the original of the same is at his home. He also stated that he kept representing and was re-engaged on 7-3-89 and was disengaged on 15-4-89. He further stated that he raised his claim in 2000. In cross-examination he stated that he was a casual labour and was earlier paid @ Rs. 5.50 per day and later @ Rs. 10 and that he raised the claim after 22 years with intermediate correspondence. It was stated that he worked for 38 days only during 07-3-89 to 14-4-89 and that he has worked for 120 days and 240 days continuously. It was also admitted that the Ministry of Labour has rejected the case of his

three other companions on the basis of delay. In support of his claim the workman has heavily relied on the photocopy of the casual labour card, the original of the same has not been filed by the workman before this Tribunal.

12. In rebuttal the management of the railways has examined Shri Anil Kumar Bajpai, JE (Signal/Project); who stated that the workman was engaged as Casual Labour, who worked in project work in 1975-76 on daily wages, intermittently. The workman was disengaged on 11-4-78 after end of sanction of project work and he was never given temporary status and the workman never represented for his service before the Railway. He further stated that no notice is being given for appointment or termination of the daily wagers and the workman has raised the present dispute after long delay of about 25 years and the ministry has rejected other similarly situated cases on the basis of delay. He also denied to certify the photocopy of the documents filed by the workman for the want of their originals.

The opportunity to cross-examine the management witness was closed due to absence of workman and next date was fixed for arguments. On the next date the order debarring workman to cross-examine the management witness was recalled and the workman's union was afforded opportunity to cross-examine the management's witness on the next date i.e. 7-5-2007. When the management could not produce its witness for cross-examination the management's evidence was closed vide order dated 23-7-2009 and next date was fixed for arguments.

13. The authorized representative of the workman's union has contended that the workman was engaged as Khalsi and after having completed 120 days and 240 days of continuous working the management of the railways failed to comply with the provisions contained in Railway Establishment Manual and providing him temporary status after completion of 120 days working in four months, in as much as also could not comply with the provisions contained in Section 25 F of the I.D. Act, 1947 whereby it was mandatory on the part of the management to give notice or one months notice pay in lieu thereof, in view of completion of 240 days continuous working by the workman.

14. The authorized representative of the management has argued that the workman's union has raised the dispute after a lapse of 25 years and accordingly it is not in position to ascertain as to whether the workman worked under it or not and if so then for what duration. It has been contended that the claim of the workman's union be rejected out rightly being stale one. Further, it was argued that the engagement of the workman was for intermittent period on daily wages and his services were terminated on completion of project without any notice. Provisions of the I.D. Act, 1947 are not applicable in case of termination of services of a daily wager. It was also

contended that the burden lies on the workman to substantiate that he actually worked for 120 days in four months time or that of 240 days preceding twelve months from the date of alleged termination to attract the provisions of Railway Establishment Manual or that of I. D. Act, 1947. It has also disputed the genuineness of the casual labour card for non-production of original casual labour card by the workman.

15. I have given my thoughtful consideration to the rival contentions of the parties and scanned entire evidence on record.

16. From the pleadings of the parties as well as schedule of reference order it is apparent that the services of the workman had been terminated by the management of the railway w.e.f. 12-4-78 and the workman has raised this industrial dispute on the year 2004, even if the date of raising dispute is reckoned from the date the workman moved application before Assistant Labour Commissioner (Central) for conciliation then it comes out to be 2003; accordingly, it comes out that the present claim has been raised after about 25 years. Although the workman's union has tried to explain the said delay by pleading that the workman has been making representations before the railways; but the management vide paper No. 9/25, filed with written statement, which is a letter dated 13-12-2004 of Senior Divisional Engineer (Signal)/Const., NR, Lucknow, addressed to the E.S.T.E., (Project), NR, Lucknow; has brought out that the workman has not made any representation since 1978 till date and his name is not mentioned in Casual Labour Live Register. This makes the contention of the management more concrete that there is delay of 25 years in raising the present industrial dispute.

17. In 1992 (2) SLJ 103 Bhoop Singh vs. Union of India & others, termination of his service was challenged by a police constable 22 years after his termination. In the said case Hon'ble Apex Court observed as under:

"Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. A person cannot be permitted to challenged the termination of his service after a period of twenty two years without any cogent explanation for the inordinate delay."

In the case of Retam Chandra Sammants & Others vs. The Union of India & Others, Jt 1993 (3) SC 418, the Hon'ble Apex Court has observed as follows:

"In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time loses his right as well. From the date of retrenchment if it is assumed to be correct a period

of more than 15 years has expired and in case we accept the prayer of petitioner we would be depriving a host of others who in the meantime have become eligible and are entitled to claim to be employed

Hon'ble Bombay High Court in 2011 (129) FLR 1037 Executive Engineer, Public Works Department, Wardha Vs. Namdeo Govindrao Nandurkar, Wardha, where the dispute was raised after a delay of 11 years has observed as under:

"the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In case of delay, no formula of universal application can be laid down and it would depend upon the facts and circumstances of each case. The Court dealing with the reference will have to hold an enquiry and record its finding on the question whether the reference should be dismissed on the ground of delay. In appropriate cases, the court may mould the relief either by reducing the back wages or by denying it completely. While considering the question of delay, the Court will have to be guided by certain principles, which are culled out from various judgments of the Apex Court.

In the present case, the burden of proof was upon the employee to show that the dispute was raised with a reasonable time and to offer an explanation to the satisfaction of the Court for the delay of 11 years caused in seeking reference. Even on merits, no evidence is placed on record to shift the onus upon the employer. The reference was, therefore, stale and was liable to be rejected on the sole ground".

Further, Hon'ble Apex Court while dismissing the writ petition (civil) No. 71 of 1992 between Ratan Chandra Sammanta & Others vs. UoI & Others, where the casual labourers of South Eastern Railway alleged to have been appointed between 1968-69 and retrenched between 1975-78 approached the Apex Court for a direction to the opposite parties to give them re-employment, has observed as under:

"In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time before his right as well. From the date of retrenchment if it is assumed to be correct a period of more than 15 year has expired and in case we accept the prayer of petitioner we would be depriving a host of others who in the meantime have become eligible and are entitled to claim to be employed."

In the present case, it is admitted fact that the workman has raised the present industrial dispute after a lapse of 26 years and the workman has not given any reasonable explanation to this long delay. Moreover, the

photocopies of the representations, filed by the workman, could not be taken into account as not proved.

19. It is well settled that if a party challenges the legality of order the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the court must fail. In the present case burden was on the workman to set out the grounds to challenge the validity of the termination order and to prove the termination order was illegal. It was the case of the workman that he had worked for more than 120 days in continuously in four months and also for 240 days in the year concerned. This claim has been denied by the management; therefore, it was for the workman to lead evidence to show that she had in fact worked as claimed by him. In (2002) 3 SCC 25 Range Forest Officer vs S.T. Hadimani Hon'ble Apex Court has observed as under:

"It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that can not be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days or order or record of appointment or engagement for that period was produced by the workman. On this ground alone, the award is liable to be set aside."

20. Analyzing its earlier decisions on the aforesaid point Hon'ble Apex Court has observed in 2006 (108) FLR R.M. Yellatti & Asstt. Executive Engineer as follow:

"It is clear that the provisions of the evidence Act in terms do not apply to the proceedings under section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforesaid judgments we find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily wages earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus, in most cases, the workman (claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self serving statements made by the claimant/workman will no suffice in the matter of discharge of

the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non-production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management."

21. In the present case the workman's union has come forward with the case that the workman was engaged as casual Khalasi 8-8-75 and worked as such up to 11-4-78 for 695 days and accordingly completed 120 days in four months, and accordingly, was entitled for grant of temporary status as per provisions contained in Railway Establishment Manual. The workman's union also pleaded that after retrenchment the workman was re-engaged on 7-3-79 and worked up to 14-4-79 for 38 days. The management has controverted the claim of the workman's union. Prima facie the burden was on the workman's union to come forward with documentary evidence to show that the workman actually worked as per pleading and for this it filed photocopy of casual labour card; but did not file its original in spite of the fact that the workman was in possession of the same (as stated by the workman in his evidence). The management disputed the genuineness of the casual labour card by submitting that no casual labour card was maintained by the office. Also, the workman's union neither bothered to summon muster roll or casual labour live register to sustain its version. On the contrary the management tried to substantiate this fact that the name of the workman was not there in casual labour live register. All this goes contrary to the claim of the workman's union.

22. In 1992 (64) FLR 1055 Union of India & Others vs. Basant Lal & Others Hon'ble Apex Court discussing the provisions contained in the Chapter XXXIII of the Indian Railways Establishment Manual has observed that in case the workers were employed in the construction work on the open line then they would acquire a temporary status after continuous employment of 120 days, but if the workers were employed on a project work then they can acquire temporary status only after completing 360 days of service.

From perusal of the evidence on record it comes out that the workman was engaged in construction unit/project work and as per Rules a casual labour engaged in project becomes entitled for benefits of temporary status only after completion of 360 days working; but once he has been retrenched on 11-4-78, as per his own pleadings; and was re-engaged on 7-3-79, the working days rendered by him after re-engagement becomes useless for the purposes of counting of 360 days working for grant of temporary status and since in the second spell of his engagement the workman worked only for 38 days therefore, it comes out that the workman was not entitled for benefits of temporary status.

23. Further, it is also the case of the workman's union that the management did not comply with the provisions of the Section 25 F of the I.D. Act, 1947 before terminating the services of the workman. In this regard, as per pleadings of the workman's union the workman worked with the management of the railways in two spells and the second spell expired on 14-4-79, which was for 38 days only. Although the workman's union has not produced any reliable material before this Tribunal to record such finding that he actually worked for 38 days in second spell, even then, if this submission of the workman's union is taken to be true then as per law laid down by Hon'ble Apex Court, it was obligatory on the part of the management to observe with the provisions of the Section 25 F of the I.D. Act, 1947 only when it was substantiated that the workman actually worked for 240 days in the year preceding the date of his alleged termination. Mere pleadings are no substitute for proof. Initial burden of establishing the fact of continuous work for 240 days in a year was on the workman's union but it has failed to discharge the above burden. There is no reliable material for recording findings that the workman had worked more than 240 days in the preceding year from the date of his alleged termination and the alleged injustice of illegality was done to the workman by the management.

24. Thus, in view of the discussions made above it comes out that the present industrial dispute raised by the workman's union is highly belated one, raised after lapse of 25 years. There is no merit in the claim of the workman's union for it could not produce any substantive proof in support of its pleadings that the workman was actually entitled for grant of temporary status from 14-1-76 or that of observance of statutory provisions before terminating his services on 12-4-78.

25. Accordingly, the reference is adjudicated against the workman Nand Lal and he is not entitled to any relief.

26. Award as above.

LUCKNOW.

29-3-2012

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 24 अप्रैल, 2012

का.आ. 1696.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दक्षिण मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 55/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-4-2012 को प्राप्त हुआ था।

[सं. एल-41012/26/2006-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 24th April, 2012

S.O. 1696.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 55/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of South Central Railway, and their workmen, which was received by the Central Government on 24-4-2012.

[No. L-41012/26/2006-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri VED PRAKASH GAUR, Presiding Officer

Dated the 16th day of March, 2012

Industrial Dispute No. 55/2006

Between :

Sri Anthony Divyaraj,
Bhagasri Apartment,
Flat No. 101, Street No. 14,
Lane No. 1, Nagarjuna Nagar,
Tarnaka, Secunderabad-17.

...Petitioner

AND

The General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.

...Respondent

APPEARANCES :

For the Petitioner : Sri William Burra, Advocate
For the Respondent : Sri A. Prithvi Raj, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-41012/26/2006-IR(B-I) dated 6-9-2006 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management South Central Railway and their workman Sri Anthony Divyaraj. The term of reference is as under:

SCHEDULE

“Whether the action of South Central Railway, utilizing the services of Sri Anthony Divyaraj as Substitute Bungalow Peon without any wages and not considering his case for posting as substitute against posts of Gangman/Khalasi etc., and terminating without retrenchment compensation is legal and/or justified? If not, what relief he is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 55/2006 and notices were issued to the parties.

2. Petitioner filed claim statement stating therein that he was appointed as Bungalow peon attached to the Chief Engineer/Construction/I/Secunderabad vide office order No. 18/2003, dated 11-3-2003 and worked in that capacity till the end of May, 2003. Petitioner submitted that as his father was suffering from throat cancer, he could not attend to his duties from June, 2003. However, he has informed the sickness of his father to the Chief Engineer/Construction/I/Secunderabad, he was allowed to attend his sick father. Petitioner's father died and the Petitioner rejoined duties on 1-6-2004, then he was issued another office order No. 29/2004 dated 2-6-2004 reappointing the Petitioner w.e.f. 1-6-2004. He was regular to his duties from June, 2004 to February, 2005.

3. While so, Petitioner received charge sheet on 4-3-2005 alleging therein that Petitioner remained absent from duty w.e.f. 3-1-2005 without any prior intimation or sanction of leave etc.. It is submitted that Petitioner was not allowed to perform his duties as Bungalow Peon from 9-2-2005 and finally he was terminated w.e.f. 3-8-2005. Petitioner is entitled for reinstatement with full back wages, continuity of services and other attendant benefits. He is also entitled for regularization as per circular No. P(r)564/BP/II, dated 18-10-2004 according to which Bungalow Peon who has completed 120 days of continuous service is entitled for temporary status and he may be considered for posting as substitutes against the posts of Gangman/Khalasi etc., as he has completed more than 120 days of continuous service from 1-6-2004 to 8-2-2005. Hence, the termination order dated 3-8-2005 is illegal, arbitrary and against the principles of natural justice.

4. Respondent management has filed counter statement. It is stated that Petitioner worked only during the period from 1-6-2004 to 2-1-2005 and he was absent to his duties from 3-1-2005 onwards. It is submitted that Petitioner Sri Anthony Divyaraj was issued with the order of engagement as Substitute Bungalow Peon attached to the Bungalow of Sri G. A. Rama Rao, Ex. Chief Engineer/Construction/I/SC vide office order No. 18/2003 dated 11-3-2003. But he did not report for duty at Bungalow till 6-5-2003, as such his wages were not drawn and also Petitioner has not represented about non drawl of wages. Petitioner had worked continuously from 1-6-2004 to 2-1-2005 and he was absent from duty w.e.f. 3-1-2005. Disciplinary action was initiated against him and his services were terminated vide O.O. No. 69/2005 dated 3-8-2005. Petitioner approached Regional Labour Commissioner(C) and finally conciliation proceedings ended in failure. Termination was ordered for his absence beyond 3-1-2005, he was also paid compensation of 14 days wages for retrenchment. On his representation for two times to Chief Personnel Officer, orders for reinstatement of Petitioner vide order No. P/E/79/2007 dated

25-5-2007 posting him as Substitute Trackman in scale Rs. 2610-3540 in Nanded division with continuity of service and without back wages. On being found unfit for the post of Trackman, chance was given to the Petitioner to have a post of a lower Medical classification including the post of Safaiwala but the Petitioner did not report to Nanded. The prayer of the Petitioner has already been complied by the management, as such, the claim of the Petitioner before this court be dismissed.

5. Both parties were directed to file their respective evidence. Petitioner or his counsel did not attend on the date of hearing as such, in absence of Petitioner or his counsel evidence of workman closed. Respondent has filed affidavit of Sri P.V.V. Prasad Rao as MW and marked documents Ex. M1 to M8.

6. Management witness Sri P.V.V. Prasad Rao has reiterated the facts of counter statement in his chief examination affidavit. Petitioner has not cross examined witness of management.

7. On the date of arguments, both parties as well as their counsels were absent. There is nothing on record in support of the claim of the Petitioner in absence of oral or documentary evidence of the Petitioner. As such, the case is dismissed in absence of evidence from the side of the Petitioner and in absence of parties, reference is answered in negative. It is held that the management of South Central Railway has considered the case of Petitioner but, he was not found fit for fulfillment of his demand. The action of management is justified. Petitioner is not entitled to any relief. Hence, this Award. Transmit.

Dictated to Smt P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 16th day of March, 2012.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	MW1: Sri P.V.V. Prasada Rao

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex.M1: Copy of request lr. of Petitioner for appointment as Bungalow Peon dt. 30-4-2004
Ex.M2: Copy of note for engagement of Petitioner as Bungalow Peon
Ex.M3: Copy of minutes of conciliation proceedings dt. 1-3-2006
Ex.M4: Copy of lr. No.CE/C/I/SC dt. 12-1-2005 reg. performance report of Petitioner by CE/C/I/SC
Ex.M5: Copy of lr. of request by Petitioner for withdrawal of court case & reinstatement dt. 18-4-2007

Ex.M6: Copy of lr. of request by Petitioner for reinstatement dt. 24-5-2007

Ex.M7: Copy of O.O.No. P/E/677/B.Peon/Vol. 12 dt 25-5-2007

Ex.M8: Copy of lr.No.NP/564/Admn-Cad/B.Peon dt. 28-3-2008 to CPO/SC reg. non-reporting of the Petitioner to duty.

नई दिल्ली, 24 अप्रैल, 2012

का.आ. 1697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. ऑटोक्रेट्स इंडिया (प्रा.) लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-1/20 ऑफ 2002 एवं सीजीआईटी-1/72 ऑफ 2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2012 को प्राप्त हुआ था।

[सं. एल-31011/14/2002-आईआर (बी-II),

सं. एल-31011/14/2003-आईआर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 24th April, 2012

S.O. 1697.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-1/20 of 2002 and CGIT-1/72 of 2003) of the Central Government Industrial Tribunal-cum-Labour Court-1, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Autocreates India (Pvt.) Ltd. and their workman, which was received by the Central Government on 2-4-2012.

[No. L-31011/14/2002-IR (B-II),

No. L-31011/14/2003-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1

MUMBAI

JUSTICE G. S. SARRAF, Presiding Officer

Reference No. CGIT-1/20 of 2002

Reference No. CGIT-1/72 of 2003

Parties : Employers in relation to the management of Autocreates (I) Pvt. Ltd.

And

Their Workmen

Appearances :

For the Management : Shri. S. Shroff, Adv.

For the workmen : Ms. Kunda Samant, Adv.

State Maharashtra

Mumbai, dated the 22nd day of March, 2012.

AWARD

1. These are the two references made by the Central Government in exercise of its powers under clause (d) of sub section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) and the terms of reference given in the schedules are that whether the demand of the Union for reinstatement of 14 workmen is legal and justified and what relief they are entitled to?

2. These two references contain common questions of facts and law and, therefore, they are being disposed of by this common award.

3. The Maharashtra General Kamgar Union (hereinafter referred to as the Union) has filed statement of claim on behalf of 10 workmen in Ref.no.20 of 2002 and on behalf of 4 workmen in Ref.no.72 of 2003 and thus there are 14 workmen in all in the two references.

4. Nana Salgaonkar's name has been repeated in the two references and his name is Nana alias Sashikant Salgaonkar.

5. In Ref.no. 20 of 2002 six workmen out of ten namely, Parmeshwar K. Wahkhede, Shafeeq Khan, Nagesh Thakur, Ravi Mali, Purshparaj Parayan and Rizvan Sheikh have compromised. Laxman Suryagan has joined and thereafter he has resigned on his own will. Mehboob Khan has not come in the witness box. Thus there remain only two namely, Sashikant Salgaonkar and Karbari R.Bhade who are contesting.

6. In Ref.no. 72 of 2003 only one Pratap Khurpe is contesting and the other three have compromised.

7. According to the statements of claim submitted by the Union in the two references the workmen were employees of M/s. Autoriders India Pvt. Ltd. for Telco in different capacities and there they worked for about 9-10 years. The said company was closed in 1998 and the work was taken over by the first party from Telco and all the employees became the employees of the first party. However, the first party registered their date of employment as 1-4-1998. The workmen performed the work connected with export of Telco vehicles. Nhava Sheva Bunder Kamgar Sanghatana (hereinafter referred to as the Sanghatana) was functioning in the first party and the workmen were members of the Sanghatana. The workmen then approached the Union expressing their desire to join the Union. Twenty one workmen became members of the Union. The Union arranged for a morcha on 3-1-2001. The workmen attended the morcha. The workmen were laid off as they attended the morcha on 3-1-2001. According to the statement of claim the retrenchment of the 14 workmen in phased manner was not bona fide as the junior employees were retained and the first party violated provisions of Section 25-F of the Act. The union has prayed that the workmen be reinstated with continuity of service, full back wages and incidental benefits.

8. The first party has filed written statements wherein it has stated that there was heavy fluctuation in work order and most of the workmen were sitting idle for months together for want of sufficient work. Therefore, the first party retrenched some workmen from time to time since there was no possibility for any work. The management had no alternative but to terminate the surplus workmen by way of retrenchment as per Section 25-F of the Act. The first party has denied that it registered uniformly the date of employment of the workmen as 1-4-1998 and that all the workmen became direct employees of the first party. According to the written statement Raigad General Kamgar Union is the recognised union functioning in the first party and it has denied that the Sanghatana was functioning in the first party at JNPT and the workmen were the members of the Sanghatana. The first party has stated that it was not aware of any morcha on 3-1-2001. It has denied that any junior employees were retained in service while retrenching the workmen. The first party has denied that the cheques given to the retrenched workmen for notice pay and for retrenchment compensation were returned by the banks. The first party has denied all allegations made in the statement of claim. The first party has denied that the workmen are entitled to reinstatement with continuity of service, back wages and ancillary benefits.

9. The Union has filed rejoinders.

10. Heard Ms. Kunda Samant learned counsel for the workmen and Shri Shroff, learned counsel for the first party.

11. In Ref.no.20 of 2002 the Union has filed affidavit of its Secretary Sahadev Sambhaji Malaye and the affidavits of the workmen Karbari R.Bhade and Laxman Suryagan. The Union has also examined the workman Sashikant. The above witnesses have been cross-examined by learned counsel for the first party. The first party has filed affidavit of Shrikant Bhaskar Powar who has been cross-examined by learned counsel for the Union.

12. In Ref.no.72 of 2003 the Union has filed affidavit of its Secretary Sahadev Sambhaji Malaye and affidavit of workman Pratap Kurphe who have been cross-examined by learned counsel for the first party. The first party has filed affidavit of Shrikant Bhaskar Powar who has been cross-examined by learned counsel for the Union.

13. The witness of the first party Shrikant Bhaskar Powar has stated in his affidavit filed in Ref.no.20 of 2002 that in view of non-availability of work to be allotted to the workmen due to reduction in jobs, recession in business and financial constraints and no improvement in the situation regarding export of vehicles the management decided to give layoff to six workmen namely; Shafeeq Khan, Ravi Mali, Nagesh Thakur, Rizwan Sheikh, Pushparaj Parayan and Laxman Suryagan from 7-11-2001 onwards with the hope of getting some work order and accordingly notice dt. 7-11-2001 was displayed and the above workmen

were given layoff. He has further stated that many cancelled their orders for Telco vehicles and in these circumstances the management had no alternative but to layoff more workmen and accordingly by notice dt. 2-2-2002 management laid off 4 workmen namely, Sashikant Salgaonkar, Mehboob Khan, Karbari Bhade and Suhas Parab w.e.f. 20-2-2002. He has further stated that

I say that the export of vehicles continued to deteriorate day by day, as several countries cancelled their orders for TELCO vehicles. Consequently, there was no possibility for any work for some workmen, which could be provided to them due to recession in business activities and financial constraints. Consequently, their services became surplus to the requirement of the management. The management had, therefore, no alternative but to terminate the surplus workmen by way of retrenchment as provided under Section 25 F of I.D. Act, 1947. Accordingly, it was decided to terminate the services of 7 workmen including 6 workmen from above reference and notice dated 25-5-2002 along with seniority list was displayed on the notice board of the company informing said 7 workers namely S/Shri Rizwan Shaikh, Nagesh Thakur, Ravi Mali, Hasmukh Rathod, Laxman Suryagan, Pushparaj Parayan and Safique Khan that their services would be terminated by way retrenchment w.e.f. 4-3-2002. Thereafter, notice in Form XXIV dated 4-3-2002 along with statement of reasons, notice of termination and seniority list was sent to all authorities, as contemplated under said Section 25 F. I further say that the said retrenched workmen were offered one months wages in lieu of notice, retrenchment compensation and bonus on prorated basis. I further say that action our company in terminating services of said 7 workmen by way retrenchment w.e.f. 4-3-2002 is legal, valid and the same is in accordance with the provisions of Section 25F of the I.D. Act. I further say that all said 7 retrenched workmen have admittedly received their said terminal dues, except said Mr. Laxman Suryagan, who did not encashed his cheque of legal dues.

I say that even after retrenchment of above 7 workmen, the management was not in a position to provide sufficient work to its workmen as the export of vehicles further continued to deteriorate day by day, due to continued cancellation of orders for TELCO. Consequently, there was no possibility for any work for more workmen, which could be provided to them due to reduction in job, recession in business and financial constraints. Consequently their services became surplus to the requirement of the management. The management had, therefore, no alternative but to terminate the surplus workmen by way of retrenchment as provided under Section 25 F

of I.D. Act, 1947. Accordingly, notice dated 2-5-2002 along with seniority list was displayed on the notice board of the company informing 4 workmen namely S/Shri Shashikant Salgaonkar, Mehboob Khan, Karbhari Bade and Suhas Parab that their services would be terminated by way retrenchment w.e.f. 9-5-2002. Thereafter, notice in Form XXIV dated 9-5-2002 along with statement of reasons, notice of termination and seniority list was sent to all authorities, as contemplated under said Section 25 F. I further say that the said retrenched workmen were offered one month's wages in lieu of notice, retrenchment compensation and bonus on prorated basis. I further say that action our company in terminating services of said 4 workmen by way retrenchment w.e.f. 9-5-2002 is legal, valid and the same is in accordance with the provisions of Section 25F of the I.D. Act. I further say that all said 4 retrenched workmen have admittedly received their terminal dues.

Pratap Kurpe has stated in his cross-examination "It is true that I was laid off w.e.f. 11-3-2002. I did not challenge the layoff in any Court."

14. On the basis of the above evidence I have come to the conclusion that neither the principle of last one first go appears to have been violated nor the reasons for retrenchment are sham and bogus. There is nothing to suggest that the provisions of Section 25 F of the Act have not been complied with.

15. It is clear from the above discussion that the demand of the Union for reinstatement of the workers is not justified and the workmen are not entitled to any relief.

Award is passed accordingly.

Justice G. S. SARRAF, Presiding Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध निधियों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/47/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-2012 को प्राप्त हुआ था।

[सं. एल्-12012/31/2004-आईआर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 25th April, 2012

S.O. 1698.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/NGP/47/2004) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of Central Bank of India and their workmen, which was received by the Central Government on 12-3-2012.

[No. L-12012/31/2004-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/47/2004

Date: 17-2-2012

Party No. 1 : The Regional Manager,
Central Bank of India,
Regional Office, 173, Tilak Road,
Ahmednagar (MS)-414001.

Versus

Party No. 2 : Shri Akbar Gulam Dastagir Sayyad,
Post: Badhegaon, Tal: Shevgaon,
Ahmednagar, (MS)

AWARD

(Dated : 17th February, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Central Bank of India and their workman Shri Akbar Gulam Dastagir Sayyad, for adjudication, as per letter No. L-12012/31/2004-IR (B-II) dated 31-5-2004, with the following schedule :—

"Whether the concerned person Shri Akbar Gulam Dastagir Sayyad, was in employment in the Bodhegaon Branch of the Central Bank of India and have worked regularly w.e.f. August, 1996 to December, 2002 ? If so, whether his termination/disengagement by the management w.e.f. 10-1-2003 without any notice and compensation under section 25-F, G and H is legal and justified and to what relief the concerned workman is entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, Shri Akbar Gulam Dastagir Sayyad, ("the workman" in short) filed his statement of claim and the management of the Central Bank of India ("Party No. 1" in short) filed its written statement.

3. The case of the workman is that he was working as a Part Time Safai Karmachari ("PTSK" in short) in Central Bank of India, Bodhegaon Branch from 1996 to 2003 continuously and without any break, but neither any appointment letter nor any other order regarding his engagement was issued by the Party No. 1 and he was not being paid regular salary, but was being paid wages weekly on vouchers for the days of actual work and on 6-8-1999, he had made representation to the Branch Manager for

regularization of his services, but no reply was received by him regarding the action taken on his application and in the year 2003, the Party No.1 terminated his services, without compliance of the mandatory provisions of the Act. The workman has prayed to set aside the order of termination of his services and to reinstate him in service with continuity and full back wages.

4. The Party No.1 in its written statement has pleaded inter-alia that the workman was engaged as a casual daily rated employee, on purely temporary basis, depending upon the availability of work and he was given to understand that he was being provided work on purely temporary basis, as and when required and he was not being engaged and appointed against any clear vacancy and he worked for 72 days, 142 days, 124 days, 102 days, 11 days, 56 days and 5 days in the year 1996 to 2003 respectively and he worked for 512 days in total and when work was not available for the workman, he was discontinued and the disengagement of the workman did not amount to termination by way of retrenchment and it has a set procedure, rules and regulations in the matter of recruitment of employees and as the workman worked on daily wages for a few days, he is not entitled to claim regularization and the workman was paid wages on vouchers by computing wages per day and as such, there was no question of payment of monthly salary to him and there was no question of preparing vouchers in the name of other persons to show break in the service of the workman and by following due procedure of recruitment, the posts of PTSK of the Bank were filled up and the workman was not selected/recruited, as his name was in the waiting list of the candidates and as such, the workman is not entitled for any relief.

5. It is necessary to mention here that soon after filing of the statement of claim; the petitioner remained absent and did not contest the case. No evidence was adduced by the workman in support of his claim. As such, orders were passed to proceed ex-parte against the workman.

6. It is well settled that when a workman raises a dispute challenging the validity of the termination of his service, it is imperative for him to file written statement, before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or to produce evidence, the dispute referred by the Government cannot be answered in favour of the workman and he could not be entitled to any relief.

7. In this case, the workman has not adduced any evidence to show that he worked for 240 days preceding the 12 calendar months of the date of alleged termination. The workman has even not mentioned the date of his termination in the statement of claim. As the workman has failed to discharge the burden to prove that he had in fact

worked for 240 days preceding the 12 calendar months of the date of termination, the provisions of Section 25-F are not applicable. There is also no evidence on record of violence of Section 25-G and H of the Act. Hence it is ordered :

ORDER

The workman, Shri Akbar Gulam Dastagir Sayyad, was in, employment in the Bodhegaon Branch of the Central Bank of India and had not worked regularly w.e.f. August, 1996 to December, 2002. His termination/disengagement by the management w.e.f. 10.01.2003 without any notice and compensation under section 25-F, G and H is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय भारतीय स्टेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 50/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-4-2012 को प्राप्त हुआ था।

[सं. एल-12012/02/2006-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S.O. 1699.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 24-4-2012.

[No. L-12012/02/2006-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE SRI RAM PARKASH, HJS, PRESIDING
OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
KANPUR**

Industrial Dispute No. 50 of 2006

Between-

Bhagwati Prasad, son of Sri Tulsi Ram,
C/o Sri R T Rauikwar, RB-11-762,
TC Colony, Bhusawal,
District-Jalgaon,
Maharashtra.

And

The Assistant General Manager,
State Bank of India,
Zonal Office,
The Mall, Kanpur.

AWARD

1. Central Government, MoL, New Delhi, vide notification No.L-12012/02/2006-IR(B-I) dated 24-7-06, has referred the following dispute for adjudication to this tribunal-

2. Whether the demand of Sri Bhagwati Prasad to re-employ him after his termination with effect from 25-8-95 under section 25H of the Industrial Disputes Act with the management of State Bank of India Kanpur is justified? If, so what relief the workman concerned is entitled to?

3. It is alleged by the claimant that he was appointed as peon (Sahyogi) on 03.01.94 by the opposite party state Bank of India Lalitpur Branch and he discharged all the work as assigned to the post of peon. His work and conduct always remained satisfactory.

4. On 25-8-95 he was asked not to do the work on the ground that as and when work will be available he will be called. Subsequently, the claimant by way of repeated correspondences raised his demand for his reemployment with the bank but all remained in vain. It is alleged that neither the claimant was paid any notice, notice payor retrenchment compensation and also that after his illegal termination of service several junior hands were employed by the opposite party 'bank at his place and while appointing them he was never afforded any opportunity for his re-employment by the bank thus the whole action of the opposite party bank is in breach of the mandatory provisions of the Act like 25F, 25G and 25H of the Act as well as also attracts the provisions of unfair labour practice. He has disclosed the names of new appointees as Ram Khilawan, Sushil Kumar, Pawan Kumar, Naresh Kumar, Gyanendra Singh, R S Yadav and Jitender Singh and others. Lastly it is prayed by the claimant that he be reinstated in the service of the bank with full back wages continuity of service and with all consequential benefits.

5. Opposite has filed its reply wherein it stated that the claimant was engaged whenever there was an exigency of work as a casual labour in the year 1994, but there was no sanctioned post in the branch. Therefore, question of retrenchment does not arise. The claimant has filed an application before ALC(C) Kanpur, wherein he has not shown his working period. It is also alleged that the claimant has never completed 240 days or more in a calendar year. It is also pleaded that the claim of the claimant is barred by time as it has been raised at a highly belated stage. It is also pleaded that regarding new recruits the bank is not in position to give proper reply as no particular details of the persons alleged to have been engaged is given in the statement of claim. Lastly it is pleaded that it is absolutely wrong to allege that the opposite party has committed

breach of any of the provisions of the Act, therefore, the claim of the claimant is liable to be rejected.

6. Both the parties have filed documentary as well as oral evidence in support of their respective claim and counter claim. Whatever the documentary evidence is there the relevancy of those documents will be seen and discussed at the time appreciation of the evidence of the parties.

7. Claimant has adduced himself as W.W.I whereas opposite party has adduced Sri Ashok Kumar as M.W.I.

8. I have thoroughly examined oral as well as documentary evidence of both the parties. From the evidence it has been found that the claimant was never appointed on any regular and against a sanctioned post of peon by the bank at its Lalitpur branch. He was not given any appointment letter or termination letter. It has been found from the evidence that the claimant was engaged as a casual labour by the branch manager whenever there was exigency of the work in the year 1994.

9. Claimant has filed several documents vide list 19-11-07. In this list most of the documents are correspondence done by the claimant with the bank which is photocopies. None of these letters show that he was ever engaged as a peon as claimed by him. There are certain paper i.e. paper No.14/13-14/23. These are photocopies. Some of them are admitted by the opposite party also in the cross-examination.

10. Now the question arises whether the claimant has completed 240 days preceding 12 calendar months from the date of his termination.

11. Opposite party has specifically stated in their w. s. as well as in their statement that the claimant was engaged in the year 1994 as per exigency of the work as a casual labour and he was paid accordingly as daily wages. The papers which were filed by the claimant are the applications given by him to the Manager claiming certain amount for some misc. work, conveyance charges etc. These are for the period of July 1994. He has also filed the photocopy of the local delivery book. Every cognizance is taken on these photocopies, it relates to the period of August 1994.

12. Therefore burden lies on the workman to prove that he has completed 240 days in the preceding 12 months from the date of his termination. It is a case where the claimant has not claimed that he has been in service or engaged continuously for years together, he simply claim that he was engaged in 1994 and removed on 25-8-95.

13. Opposite party has filed the documents which are the proceedings which had gone before the ALC@ Kanpur in which the claimant has not disclosed the period during which he was engaged by the opposite party bank and also he has not disclosed the fact that he had ever

completed 240 days or more in one calendar year preceding 12 months from the date of his termination, whereas the workman has stated on oath before this tribunal in his evidence that he was continuously in the employment of the bank right from 3-1-94 to 24-8-95. In his cross-examination the claimant has admitted that he did not work for 240 days continuously in 12 preceding months from the date of his termination i.e. 25-8-95.

14. It is the contention of the opposite party that the burden lies on the workman to prove that he had worked continuously for 240 days in a calendar year preceding the date of his termination. He has also placed reliance upon a decision 2010 Lab IC 2234 Allahabad High Court between M/s. Modi Sugar Mills Ghaziabad versus Labour Court—where in the Hon'ble High Court held—it is for workman to prove from documents regarding the period of service rendered - Only mere filing an affidavit without any cogent documents, claim of workman cannot be accepted.

15. Therefore, considering the totality and circumstances of the case where the opposite party has specifically denied the claim of the claimant on oath that he did not work continuously, as such I am of the view that the claimant has not worked for 240 days continuously preceding 12 months from the date of his termination. Therefore he has not acquired any right for the protection of the provisions of the Industrial Disputes Act, 1947.

16. The claimant has not adduced any cogent evidence that after removal of his services by the opposite party, the opposite party has engaged fresh hands, therefore, claim of the claimant also fails within the provisions of Section 25G of the Act.

17. M.W.I has specifically stated on oath that none of the person like Naendra Kumar etc., have never been employed or engaged are working under the management. Therefore, in the opinion of the tribunal burden lies on the workman to prove the fact that juniors to him were engaged or retained but this has not been discharged therefore, the claim of the claimant also fails on this ground.

18. Claimant has also placed reliance upon a decision 2010(125) FLR 187 SC between Krishan Singh & Executive Engineer HSAM Board.

19. I have respectfully considered this decision of the Hon'ble Apex Court but considering the facts and circumstances of the case the claimant cannot be allowed to seek any benefits from the decision (supra).

20. Having considered the factual and legal position of the case it is concluded that the workman has miserably failed to prove his case and as such it is concluded that the workman is not entitled to any relief as claimed by him in his claim statement pursuant to the reference order made to this tribunal. Therefore, the reference is answered against the workman and in favour of the opposite party.

RAM PARKASH, Presiding Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1700.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई. सी. आई. सी. आई. बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 17/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-12012/26/2010-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S. O. 1700.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17 / 2011) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of ICICI Bank Ltd. and their workmen, received by the Central Government on 25-4-2012.

[No. L-12012/26/2010-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 30th March, 2012

Present : A. N. Janardanan, Presiding Officer

Industrial Dispute No. 17/2011

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of ICICI Bank Limited and their Workman.]

BETWEEN

Sri M. Subramaniam : 1st Party/Petitioner

Vs.

The Deputy General Manager : 2nd Party/Respondent

APPEARANCE:

For the 1st party/Petitioner : Sri T. Ramkumar, C.D.
Sugumar, Advocate

For the 2nd Party/
Management : M/s S. Ramasubramaniam
& Associates, Advocates

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12012/26/2010-IR(B-I) dated 08-03-2011 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the Management of ICICI Bank Limited in terminating services of Sri M. Subramaniam, Ex-Substaff w.e.f. 06-02-2002 is legal and justified? To what relief the workman is entitled?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as I. D. 17/2011 and issued notices to both sides. Both sides entered appearance through their advocates and filed their Claim and Counter Statements as the case may be. Thereafter when the matter stood posted from time to time for further steps and lately on 09-03-2012 for enquiry, petitioner continued with his persistent absence. Nor was he represented too which was the consistent conduct.

3. Points for consideration are:

(i) Whether the termination from service of Sri M. Subramaniam, Ex-Substaff w.e.f. 06-02-2002 is legal and justified?"

(ii) To what relief the concerned workman is entitled?

Points (i) & (ii)

4. The petitioner remaining absent and has been set-exparte. He has not chosen to give any evidence as well by appearing before this Court to prove his claim. Needless to say it is upon the petitioner to substantiate his case that the punishment of termination inflicted on him by the Management is not legal and justified if it is actually so. When he wishes the Court to be satisfied and made believe that it is so it is for him to discharge that burden which has not been done. The inevitable conclusion is that the punishment of termination imposed on him is only legal and justified and he is not entitled to any order in his favour.

5. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 30th March, 2012)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None

For the 2nd Party/1st Management : None

Documents Marked:

On the Petitioner's side

Ex.No.	Date	Description
		N/A

On the Management's side

Ex.No.	Date	Description
		N/A

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. सिसपान शिपिंग लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, 1, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-1/44 ऑफ 2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-2012 को प्राप्त हुआ था।

[सं. एल-31011/7/2007-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 25th April, 2012

S. O. 1701.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-1/44 of 2007) of the Central Government Industrial Tribunal/Labour Court-1, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Seaspan Shipping Ltd. and their workmen, which was received by the Central Government on 12-3-2012.

[No. L-31011/7/2007-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

JUSTICE G.S. SARRAF, Presiding Officer

REFERENCE NO. CGIT-1/44 OF 2007

Parties:

Employers in relation to the management of M/s. Seaspan Shipping Ltd.

And

Their Workman (Smt. Veera Davies)

Appearances:

For the Management : Shri M.B. Anchan, Adv.

For the workman : Shri R.A. Trivedi, Adv.

State : Maharashtra

Mumbai, dated the 29th day of February 2012.

AWARD

1. In exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act 1947 (hereinafter referred to as the Act) the Central Government has referred the following dispute for adjudication to this Tribunal.

Whether the termination of the services of Smt. Veera Davies by the management of

M/s. Seaspan Shipping Ltd., Mumbai w.e.f. 3-9-1997 is legal, proper and justified? If not, to what relief Smt. Veera Davies is entitled to and from which date?

2. According to the statement of claim filed by the workman she was appointed Accounts Executive in the first party company on 15-11-1994 on a salary of Rs. 7,000 p.m. vide appointment letter dtd. 7-10-1994. Initially she was on probation for a period of six months. After completing the period of probation her services continued. However, she was terminated w.e.f. 4-10-1997 by letter dt. 3-9-1997. Her termination is arbitrary, illegal and unjustified. No enquiry has been held against her. The first party company did not comply with Section 25-F of the Act. She has, therefore, prayed that her termination letter be withdrawn and she be allowed to report for work.

3. The first party company has filed written statement wherein it has stated that the performance of the second party workman was not satisfactory and she agreed to leave the first party company on payment of Rs. 23,122 as full and final settlement of her dues. According to the written statement the second party was not a workman as defined in Section 2(s) of the Act as she worked in managerial capacity and, therefore, this Tribunal has no jurisdiction to entertain this reference. It has also been stated in the written statement that the first party company suspended business activities from 2006 due to heavy losses and since the first party company is not doing any business there is no question of reinstatement of the second party. The first party company has, therefore, prayed that the statement of claim be rejected.

4. The workman filed rejoinder wherein she prayed for reinstatement with back wages along with other benefits.

5. The workman has filed her affidavit and she has been cross examined by learned counsel for the first party. The first party has filed the affidavit of Vijay Gulati and he has been cross-examined by learned counsel for the workman.

6. Heard Shri R.A. Trivedi learned counsel for the second party workman and Shri M.B. Anchan learned counsel for the first party.

7. The second party workman was appointed w.e.f. 15-11-1994 and her services were terminated on 4-10-1997. Her probation period was six months as per the appointment letter and the first party company's witness Vijay Gulati has also stated that her period of probation was six months. It is thus clear that she was terminated well after the period of probation was over. There is absolutely no evidence to the effect that she was terminated as a result of mutual understanding or that the second party workman herself agreed to leave the first party company.

8. The question is that whether the second party workman was a workman as defined by Section 2(s) of the Act. The first party company's witness Vijay Gulati has

stated in his affidavit that the workman was the head of Accounts Department but in cross-examination he has stated that Capt. Shashikant Srivastav was looking after the accounts department and he was reporting to Sheela Chitlangia. In the affidavit Vijay Gulati has stated that James Jacob, Manoj, Shyam were working under the workman whereas in cross-examination he has stated that Manoj, Shyam and James Jacob along with the workman were reporting to Capt. Shashikant Srivastav. When the workman was cross-examined it was not suggested to her by learned counsel for the first party company that anyone of the persons named by Vijay Gulati in his affidavit was working under her. The workman in cross-examination has stated that

"This is not correct to state that the post of accounts executive was of managerial and supervisory post. This is not correct to say that I was head of the accounts department. No one was working under me. This is not correct to say that I was Officer and not a workman".

From the evidence available on the record it is sufficiently clear that the second party was a workman as defined under Section 2(s) of the Act.

9. No chargesheet was given to the workman. No enquiry was held against her. The workman was never given an opportunity of hearing before her termination. In these circumstances, the termination of the workman is illegal, improper and unjustified.

10. Now the question arises whether the workman is entitled to back wages. The workman is responsible for approaching the wrong forum where the matter remained pending for years. Moreover, there is the principle of "No work No pay". Looking to the facts and circumstances of this case I do not find it fit and reasonable to allow back wages to the workman.

11. In view of the above discussion it is clear that the workman is entitled to reinstatement only.

ORDER

The first party company is directed to reinstate the second party workman within two months from the date of this award.

The award is made accordingly.

Justice G.S. SARRAF, Presiding Officer
नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1702.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 56/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/333/2004-आई आर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S. O. 1702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 25-4-2012.

[No. L-22012/333/2004-IR (CM-II)]

D. S. S. SRINIVASARAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

PRESENT : Sri Kishori Ram,
Presiding Officer/Link Officer

REFERENCE NO. 56 OF 2005

PARTIES :

The Agent, J.K. Nagar Colliery of M/s. ECL, Burdwan.

Vs.

Sh. Banarashi Hela

REPRESENTATIVES :

For the management : Mr. P.K. Das, Advocate

For the union (Workman) : Mr. Milan Kumar
Bandopadhyaya

INDUSTRY : COAL

STATE : WEST BENGAL.

Dated - 2-02-12/30-03-12

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/333/2004- IR (CM-II) dated 20-07-2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the Management of Eastern Coalfields Limited in denying employment in respect of Sh. Banarashi Hela dependant son of Late Santi Helain of J.K. Nagar Colliery is legal and justified? If not, to what relief Sh. Banarashi Hela is entitled?"

2. Having received the Order of Letter No. L-22012/333/2004-IR(CM-II) dated 20-07-2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case

No. 56 of 2005 was registered on 17-08-05 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

3. The case of petitioner as represented by the union concerned is that Santi Helain wife of Munilal Hela was an employee of M/s. Eastern Coalfields Limited posted at its J.K. Nagar Colliery. She Died on 19-09-1998 at Central Hospital Kalla by leaving her two deaf and dumb sons Arjun Hela, Banarashi Hela and two married daughters Smt. Manju Hela and Madhu Hela, out of whom Banarashi Hela was dependant upon her income. Her death certificate issued on 19-09-1998 by the Authority of Central Hospital, Kalla and death Registration Certificate was issued by Asansol Municipal Corporation. He duly applied for his employment under the provisions of NCWA. The Relationship Certificate was issued by the Pradhan of Jemari Gram Panchayat. On verification of his relationship by the Management through the police, the applicant on his pre-appointment medical examination was declared unfit for underground job, so he was not offered any employment, despite his being an young energetic boy capable to perform any kind of job on the ground, though the Management offered suitable employment to 25 persons in similar cases as raised by the union. Having deprived the applicant of his employment for invaluable seven for the said period, for which the Management is responsible to pay him monetary compensation, as he is entitled to employment as well as monetary compensation. The action of the Management in denying his employment is illegal.

4. In the instant case under adjudication, I find that none represented the management till 16-04-09 despite register notices except Mr. P.K. Das, the learned advocate for the management casually since before 16-04-09, who all along kept on undertaking to file a letter of authority on behalf of management but, till last date no authority was filed on behalf of management.

Meanwhile, Mr. M.K. Bandopadhyaya, learned advocate for the union concerned appeared with a letter of authority and filed an affidavited deposition of petitioner Banarashi Hela. The Xeroxed copy of his documents i.e. ex-service excerpt of Shanti Helain, death-certificates issued by Central Hospital, Kalla, Asansol, handicapped certificate of petitioner in his application dated 2-11-98 and dependent certificate issued by Gram Panchayat concerned, the management's application dated 14/16-03-2000 sent to officer in charge of Nimcha for verification of relationship between the petitioner son of Late Shanti Helain, Ex-sweeperess of J.K. Nagar Colliery, the management's letter dated 26-08-2002 to the petitioner

concerning the report of his initial medical examination with another management's letter dated 10-01-2003 for the option of the petitioner for other direct-dependant and the list of handicapped persons as per the GM's office, Satgram Area dated 19/20-06-2001 which was marked as exhibits PW1-PW6 respectively. But the petitioner has not been cross-examined by any one on behalf of the management despite ample opportunities to it. It came for hearing and it was heard ex-parte on 2-06-10.

5. On perusal of the materials as produced by the petitioner, it stands evident that petitioner Banarashi Hela is the son of deceased employee Shanti Helain of the J.K. Nagar Colliery of M/s. ECL.

According to the petitioner, the petitioner was held medically unfit for underground job at the initial medical examination as per management letter dated 26-08-2002 (Exhibit 4). But a few handicapped persons (Exhibit PW6 series) have been provided employment, so, the petitioner claimed for employment for his deceased mother. The service excerpt of deceased workman Shanti Helain (PW1) proves that petitioner, Banarashi Hela is her second son who is though physically handicapped as per the handicapped certificate issued by the office of the Superintendent, Asansol Sub-Division Hospital, District-Burdwan (Exhibit PW3). As such disqualifying the petitioner for the employment as dependant son of deceased lady worker by the management merely on the ground of his unfit for underground job (Exhibit PW4) can not be justifiable in the eye of law, because the petitioner as the dependant son of the deceased sweeperess was quite capable to perform duties on the surface of J.K. Nagar Colliery.

6. Considering the aforesaid facts it is held the action of the management of ECL in denying the employment in respect of Shri Banarashi Hela (dependant son of Late Shanti Helain of J.K. Nagar Colliery) is quite illegal and unjustifiable. Therefore, petitioner Banarashi Hela is entitled to employment as a dependant son of deceased mother Shanti Helain on the surface of the J.K. Nagar Colliery. The management is directed to implement the award within one month from the receipt of the copy of award after its publication in the Gazette of India.

ORDER

Let an "Award" be and same is passed as per above. Send the copies of the Award to the Govt. of India, Ministry of Labour, New Delhi, for information and needful.

KISHORI RAM, Presiding Officer/Link Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1703.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, असंसोल के पंचाट (संदर्भ संख्या 78/2005 को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/238/2004-आई आर (सीएम-II)]
डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S. O. 1703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Dalurband Colliery, Pandaveshwar Area of M/s. ECL and their workmen, received by the Central Government on 25-4-2012.

[No. L-22012/238/2004-IR (CM-II)]
D.S.S. SRINIVASARAO, Desk Officer

**ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

PRESENT: Sri Kishori Ram,
Presiding Officer/Link Officer

REFERENCE NO. 78 OF 2005.

PARTIES:

The management of Dalurband Colliery of M/s. ECL

Vs.

Mr. Liyakat Huassain

REPRESENTATIVES:

For the management : Mr. P.K. Das, Advocate

For the union (Workman) : Mr. S. K. Pandey

INDUSTRY: COAL : STATE: WEST BENGAL.

Dated : 30-03-12

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No .L-22012/238/2004- IR (CM-II) dated 29-06-2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the Management of Dalurband Colliery under Pandaveshwar Area of M/s. Eastern Coalfields Limited in dismissing Mr. Liyakat Huassain, U.G Loader, U.M. No. 125902

from service w.e.f. 30-7-1998 is legal and justified? If not, to what relief the workman the workman is entitled?”

Having received the Order of Letter No.L-22012/238/2004-IR(CM-II) dated 29-06-2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No.78 of 2005 was registered on 17-08-05 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Mr. S.K. Pandey, the union representative for the workman Liyakat Huassain, U. G. Loader and Mr. P. K. Das, the Learned Advocate for the management are present.

Both the representatives have agreed to dispose of the case on the ground that the workman has been reinstated in his service. In view of the submission of both the representatives of the respective parties I find no longer the Industrial Dispute exists.

Under the circumstances, proceeding with the case for infinity is useless as well as wastage of time and energy of the Tribunal. Hence, the case is closed. Accordingly. it is hereby ordered:

ORDER

Let an “Award” be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

KISHORI RAM, Presiding Officer/Link Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1704.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असंसोल के पंचाट (संदर्भ संख्या 62/2006 को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/324/2005-आई आर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S. O. 1704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 62/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern

Coalfields Limited and their workmen, received by the Central Government on 25-4-2012.

[No. L-22012/324/2005-IR (CM-II)]

D. S. S. SRINIVASARAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

PRESENT: Sri Kishori Ram,
Presiding Officer/Link Officer

REFERENCE No. 62 OF 2006.

PARTIES:

The Agent, J.K. Nagar Colliery of M/s. ECL, Burdwan.

Vs.

Sri Mahendra Bhuiya

REPRESENTATIVES:

For the management : P. K. Goswami, Advocate

For the union (Workman): * Sri S. K. Pandey

INDUSTRY: COAL

STATE: WEST BENGAL.

Dated - 30-03-12

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No.L-22012/324/2005- IR(CM-II) dated 05-09-2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the Management of J.K. Nagar Colliery of ECL in dismissing Sri Mahendra Bhuiya, U. G. Loader from service w.e.f. 15-4-2005 is legal and justified? If not, to what relief is the workman entitled?"

2. Having received the Order of Letter No.L-22012/324/2005-IR(CM-II) dated 05-09-2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 62 of 2006 was registered on 25-09-06 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

3. The case of the sponsoring union is that workman Mahendra Bhuiya was employed, as Loader at J.K.Nagar Colliery under Satgram Area of M/s. Eastern Coalfields

Ltd. He was charge-sheeted as per charge-sheet No. ECL/JKN/AGT/04/565 dated 06-05-2004 for his alleged unauthorized absence from duty w.e.f. 24-11-2003. He replied to the charge-sheet that he was seriously ill and on being declared fit he reported to the Management for resumption of his duty, but was not allowed. He also submitted his sick certificates. Even then, he was unauthorisedly dismissed by the Agent of the said colliery as per dismissal order dated 15-04-2005, without following principle of natural justice devoid of providing a reasonable chance to prove his innocence at the department enquiry, in which the Management representative appeared as witness and deposed all the false allegation, but without proof of the single document or a witness to prove the charge against him. Not only the Presenting Office but also the Enquiry Officer was prejudiced, so the findings of the Enquiry Officer were biased. Since then the workman of downtrodden community has been sitting idle, and his entire family dying without meal for no fault. His dismissal from service is illegal and unjustified.

4. The case of the Management is that the workman was charge-sheeted for his long absence since 24-11-03 under clause 26.23 and 26.29 of certified standing order. On notice he appeared and fully availed of all his opportunities at the enquiry. He was punished on earlier occasions for his habitual absence, but he could not improve his behaviour. He marked his attendance only 181, 164 and 124 days in the last years 2001, 2002 and 2003 respectively. The Management after perusal of the enquiry report and other circumstances terminated his service on 13-07-05. So the action of the Management is legal and justified. The workman is not entitled to any relief.

Finding with reasoning.

5. In this instant case on the examination of WW1 Mahendra Bhuiya, the workman himself on behalf of the union, the photocopies of workman's reply to the charge-sheet and his medical certificate as well as the charge-sheet, Enquiry Report, termination of his service and the enquiry proceeding on admission of the union's representative have been marked as Exhibit W1 to 6 respectively for due consideration. Accordingly, the fairness of the domestic enquiry held unchallenged. Since both the parties filed their written argument for final adjudication.

6. On admission of the Enquiry Proceeding by the union representative, it resulted in the consideration of the materials available on the case, at the point whether the punishment of dismissal to the workman by the Disciplinary Authority was proper for his misconduct of absentism. Sri S.K. Pandey, the union representative for the workman has to submit that the dismissal of the workman, an U/G loader, by the Management w.e.f. 15-04-2005 for his absence due to his sickness from 24-1-2003 caused serious financial loss, and it was against the standing order. In response to it, Mr. P. K. Goswami, Learned Advocate for the

Management has contended that the punishment of dismissal to the workman was quite justified and legal for the reason of his willful absence, as his medical certificate issued by a medical certificate issued by a specialist doctor N.R. Das, an Obstetrician and Gynaecologist submitted in support of his illness was not satisfactory.

On appreciation of the materials available on the case record under Sec 11A of Industrial Dispute Act, 1947, it stands evident that workman Mahendra Bhuiya who is an U.G. loader of J.K. Nagar, has along been justifying his absence due to his sickness. Severe absus on his entire body from medicinal reaction (his Reply dated 9-11-04, Enquiry Proceeding and Enquiry Report-Exhibit. M1, M6 and M4 respectively). He also produced his Medical Certificate dated 6-11-2004 (Exhibit M2) issued by Dr. N.R. Das, who is General Physician as well as Obstetrician & Gynaecologist. Moreover, the workman also accepted his misconduct of his unauthorized absence from duty. But even then, his justified absence was unconsidered for it, he was terminated from his service as per the Order dated 15-04-2005 of the Disciplinary Authority concerned the case has no proof of second show cause to the workman. His termination of service for first time misconduct of unauthorized absence from 24-11-2003 as per the charge-sheet dated 6-05-2004 is quite disproportionate to the nature of it. Hence, the punishment of his dismissal is liable to be set aside.

Considering the aforesaid findings, it is held that the action of Management of J.K. Nagar Colliery of ECL in dismissing Sri Mahendra Bhuiya, U.G. Loader from his service w.e.f. 15-04-2005 is quite illegal and unjustifiable. So the workman is entitled to his reinstatement in his service but without back wages. The Management is directed to implement the award within one month from the date of its receipt after its publication in the Gazette of India.

ORDER

Let an "Award" be and same is passed as per above. Send the copies of the Award to the Govt. of India, Ministry of Labour, New Delhi, for information and needful.

KISHORI RAM, Presiding Officer/Link Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1705.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असंसोल के पंचाट (संदर्भ संख्या 26/2007) का प्रकाशित करती है, जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/309/2006-आई आर (सी एम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S. O. 1705.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/ 2007) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 25-4-2012.

[No. L-22012/309/2006-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

PRESENT : Sri Kishori Ram,
Presiding Officer/Link Officer

REFERENCE NO. 26 OF 2007.

PARTIES :

The Agent, Madhavpur Colliery of M/s. ECL,
Kajoragram, Burdwan.

Vs.

General Secretary,
KMC, Gorai Mansions, G.T. Road,
Asansol, Burdwan.

REPRESENTATIVES:

For the management : Sri P. K. Goswami, Advocate

For the union (Workman) : None

INDUSTRY: COAL

STATE: WEST BENGAL.

Dated 30-03-2012.

AWARD

In exercise of powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No.L-22012/ 309/2006- IR(CM-II) dated 22-03-2007 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Madhabpur Colliery of M/s. ECL in dismissing Shri Jaidev Bouri w.e.f. 13-12-2005 is legal and justified? If not, to what relief is the workman entitled?"

Having received the Order No. L-22012/309/2006- IR (CM-II) dated 22-03-2007 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 26 of 2007

was registered on 3-05-2007 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed for submission of their written statement, documents and list of witnesses.

In response to the notice issued from this Tribunal none represented for the union but Sri P.K. Goswami, Ld. Advocate for the management is present.

On perusal of the record I find that on 23-03-12, Sri Rakesh Kumar, General Secretary of the sponsoring union along with the workman, Sri Jaidev Bouri appeared in the Court and filed a petition enclosing therewith legible copies of Form 'H', with a prayer to close the case as the same has already been settled between the parties. Form 'H', duly signed by the authorized representative of the management, union and the workman, Sri Jaidev Bouri also shows that the dispute has already been settled.

Considering the above facts, the case is closed and accordingly it is awarded that the case has been settled amicably as per Form 'H' memorandum of settlement between both the parties as an integral part of it. The terms and conditions of the settlement shall be binding upon both the parties. Hence, it is ordered.

ORDER

Let an "Award" be and same is passed as per above. Form 'H' containing terms and conditions an integral part of the Award. Send the copies of the award to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

KISHORI RAM, Presiding Officer/Link Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1706.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असंसोल के पंचाट (संदर्भ संख्या 27/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/8/2008-आई आर (सीएल-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S. O. 1706.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 27/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Satgram Area of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 25-4-2012.

[No. L-22012/8/2008-IR (CM-II)]

D. S. S. SRINIVASARAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Kishori Ram,
Presiding Officer/Link Officer

REFERENCE NO. 27 OF 2008.

PARTIES :

The GM, Satgram Area Office,
M/s. ECL, PO: Devchandnagar (Burdwan)

Vs.

Shri Sukumar Khawas

REPRESENTATIVES:

For the management : None

For the union (Workman) : Sri Rakesh Kumar

INDUSTRY : COAL

STATE : WESTBENGAL.

Dated the 16-03-12/08-12-09

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/8/2008 (IR(CM-II)) dated 03-06-2008 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of M/s. ECL by denial of regularization to Shri Sukumar Khawas as Clerk is legal and justified? To what relief is the workman entitled?"

Having received the Order No. L-22012/8/2008- (IR (CM-II)) dated 03-06-2008 of the above said-reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 27 of 2008 was registered on 11-06-2008 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed for submission of their written statement along with documents and lists of witness etc.

On perused the case record it is found that a petition dated 23-2-2011 has been filed by Sri Rakesh kumar, General Secretary of the sponsored union, i.e. K.M.C., Asansol, with a prayer to close the case as the workman, Sri Sukumar Khawas going to be regularized by the management. A letter bearing Ref. No. SAT/PER/Re-instalment/2011/302 dated 16-09-2011 along with Form 'H' duly signed by the authorised representative of the management and the concerned workman has been received by post on

22-09-11 from the office of the General Manager, Satgram Area, Devchandnagar, Burdwan also shows that the case has been amicably settled and the workman Sri Sukumar Khawas will be regularised as Typist Clerk (Tr.) in clerical grade III.

Considering the above facts, it is hereby ordered that the case is closed and accordingly a settlement award with the terms and conditions as per the Form 'H', memorandum of settlement between both the parties as an integral part of it. The terms and conditions of the settlement shall be binding upon both the parties.

ORDER

Let an "Award" be and same is passed as per above. Form 'H' containing terms and conditions to form part of the Award. Send the copies of the award to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

KISHORIRAM, Presiding Officer/Link Officer

FORM 'H'

(See Rule 58) under Industrial Dispute
Central Rules- 1975

Memorandum of settlement arrived at between Sri Sukumar Khawas Survey Mazdoor UM No. 118861 of Satgram Area Office and Management of Satgram Area (ECL)

Representative of Management

1. Sri N. Jha, General Manager, Satgram Area
2. Sri J. S. Sayare, Dy. C. P. M. Satgram Area

Workman concerned

Sri Sukumar Khawas
Survey Mazdoor, UM No. 118861
Satgram Area Office

Short recital of the case

Sri Sukumar Khawas, Survey Mazdoor, UM No. 118861 of Satgram Area Office has been regularized as Typist Clerk (Tr.) in clerical grade-III alongwith others vide Ref No. ECL CMD C-6 WBE -5-8 dated 07-01-2011 issued by the Sr. Manager (Personnel Estb.) ECL, Sanatoria. In the terms and conditions laid down therein it was also mentioned that : The cases in respect of the employees pending before ALCC, RLCC, CGIT, Court are withdrawn by the concerned employees before the order of regularization is issued. One case was pending before the CGIT, Asansol in respect of Sri Khawas vide Ref No. 2708 and thereby his case has not yet been considered for such regularisation. Now as per FD's decision communicated vide letter No. ECL CMD C-6D IL 1/HDA/896 dated 5/6-9-2011 issued by the Sr. Manager (PL&IR), ECL it has been instructed to settle such cases on the basis of settlement in Form-H as the seal of Presiding Officer is lying vacant since long. In this regard Sri Rakesh Kumar General Secretary, RMC Union who filed the case on behalf of the workman concerned has also given copy of his prayer made before the Hon'ble Presiding Officer, CGIT, Asansol dated 15-5-2011 for closing the case in question.

TERMS AND CONDITION OF SETTLEMENT

1. Agreed that Sri Sukumar Khawas, Survey Mazdoor, UM No. 118861 of Satgram Area Office will be regularized as Typist Clerk (Tr.) in clerical grade-III on the basis of this settlement in Form-H
2. Agreed that the original mark sheet Certificate of the employee concerned will be verified from the concerned board within 3 months from the date of his regularisation.
3. A written undertaking is to be taken from the employee concerned for acceptance of Clerical Grade-III which is entry point of post of clerical grade.
4. Agreed that service of Sri Khawas, may be gainfully utilized in any of the unit under Satgram Area as per requirement.
5. Agreed that the instant settlement has been arrived with the free consent of the workman concerned as he has found the settlement to be reasonable just and free from any kind of influence.
6. Agreed that a copy of this Memorandum settlement shall be sent to the C.G.I.T Asansol & Regional Labour Commissioner (C), Asansol for registration as per I.D. Act, 1947.

The agreement is signed by both the parties on 15-9-2011.

Management Representative

Sd/-

1. (N. Jha)
General Manager
Satgram Area

Sd/-

2. (J. S. Sayare,)
Dy. Chief Personnel Manager
Satgram Area

Workman Concerned

Sd/-

(Sri Sukumar Khawas)
Survey Mazdoor Satgram
Area Office
UM No. 118861

WITNESSES

Name	Designation	U.M	Area	Signature
1 Sri Shyamal Kr. Das	Arain	396774	Satgam Area Office	Sd/- 15-9-11
2. Sri Lal Mohan Gope	Chairman	300156	-do-	Sd/-

15-9-11

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1707.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असंसोल के पंचाट (संदर्भ संख्या 127/2005 को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/18/2005-आई आर (सी एम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S. O. 1707.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 127/2005) of the Central Government Industrial Tribunal-cum-Labour Court-1, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 25-4-2012.

[No. L-22012/18/2005-IR (CM-II)]

D. S. S. SRINIVASARAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

PRESENT : Sri Kishori Ram,
Presiding Officer/Link Officer

REFERENCE NO. 127 OF 2005**PARTIES :**

The management of Nimcha Colliery of M/s. ECL

Vs.

Sh. Jogi Bhuiya

REPRESENTATIVES :

For the management : None

For the union (Workman) : None

INDUSTRY: COAL

STATE: WEST BENGAL

Dated the- 30-03-12

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No.L-22012/18/2005-IR (CM-II) dated 17-11-2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Nimcha (R) Colliery of M/s. Eastern Coalfields Limited in dismissing Sh. Jogi Bhuiya, U. G Loader from services w.e.f. 30-6-2004 is legal and justified? If not, to what relief the workman is entitled?”

Having received the Order of Letter No.L-22012/18/2005-IR(CM-II) dated 17-11-2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 127 of 2005 was registered and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, I find that a petition dated 26-7-10 under the signature of Sri H.L.Soni, Asst. General Secretary of K. M. C, Asansol has been filed with a prayer to close the case as the same has been amicably settled between the parties. Letter No. SAT/PER/Re-instatement/2011/303 dated 16-9-2011 along with Form 'H' duly signed by the representative of the management and the ex-workman, Sri Jogi Bhuiya, received by post from the office of the General Manager, Satgram Area, Burdwan also shows that the case has been amicably settled and the workman, Sri Jogi Bhuiya has been posted to Nimcha (R) Colliery.

Considering the above facts, the case is closed and accordingly, it is awarded that the case has been settled as per Form 'H', memorandum of settlement between both the parties, as an integral part of it. The terms and conditions of the settlement shall be binding upon both the parties. Hence, the case is closed. Accordingly, it is hereby ordered.

ORDER

Let an "Award" be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

KISHORI RAM, Presiding Officer/Link Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1708.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असंसोल के पंचाट (संदर्भ संख्या 139/2005 को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/69/2005-आई आर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S. O. 1708.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 139/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Pandaveshwar Area of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 25-4-2012.

[No. L-22012/69/2005-IR (CM-II)]

D. S. S. SRINIVASARAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Kishori Ram,
Presiding Officer/Link Officer

REFERENCE NO. 139 OF 2005.

PARTIES :

The management of Dalurband Colliery of M/s. ECL

Vs.

Sh. Rajesh Rajwar

REPRESENTATIVES :

For the management : Sri P.K. Goswami, Advocate

For the union (Workman) : Mr. S.K. Pandey

INDUSTRY : COAL

STATE : WEST BENGAL.

Dated the- 30-03-12

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/69/2005-IR (CM-II) dated 08-12-2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of M/s. Eastern Coalfields Limited, Dalurband Colliery, Pandaveshwar Area in dismissing Sh. Rajesh Rajwar, U.G. from service w.e.f. 15-7-2003 is legal and justified? If not, to what relief is the workman entitled?”

Having received the Order of Letter No. L-22012/69/2005-IR (CM-II) dated 08-12-2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 139 of 2005 was registered on 23-12-05 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their

written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Mr. P.K. Goswami, Learned Advocate for the management and Sri S.K. Pandey, representative of the workman are present.

Both of them submit no dispute exists in this case because the workman, Sri Rajesh Rajwar, U.G.L. has been reinstated in his service as per the management letter No. DC/PD/47/10/1002 dated 24-08-2010. It is clear that they have no interest to proceed with the case for any longer.

Under the circumstances, proceeding with the case for infinity is useless as well as wastage of time and energy of the Tribunal. Hence, the case is closed. Accordingly, it is hereby ordered.

ORDER

Let an “Award” be and the same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

KISHORI RAM, Presiding Officer/Link Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1709.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 237/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/270/2002-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S.O. 1709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 237/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Nakoda Incline of Ghugus Sub Area of WCL, and their workmen, received by the Central Government on 25-4-2012.

[No. L-22012/270/2002-IR (CM-II)]

D. S. S. SRINIVASARAO, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/237/2003

Date : 10-4-2012

Party No. 1 : The Sub Area Manager
Nakoda Incline of Ghugus Sub Area of
WCL, Post : Ghugus, Distt. Chandrapur

Versus

Party No. 2 : Shri B.S. Ishwarkar, Distt. Adviser,
Indian National Trade Union,
Vijay Bhawan, Vithal Mandir, Congress
Ward, PO & Distt. Chandrapur

AWARD

(Dated : 10th April, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and their workman Shri Kurusingh Mallayya Muttayya, for adjudication, as per letter No. L-22012/270/2002-IR (CM-II) dated 29-10-2003, with the following schedule :—

SCHEDULE

"Whether the action of the management in relation to Nakoda Incline of Ghugus Sub Area of Western Coalfields Limited in terminating the services of Shri Kurusingh Mallayya Muttayya, Badli Loader vide officer order No. WCLI WA/MGR/NI/PER/01/3117 dated 20-2-2001 is legal & justified?" If not, to what relief the workman entitled?

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the Union, "Indian National Trade Union", ("the union" in short) filed the statement of claim on behalf of the workman, Shri Kurusingh Mallayya Muttayya, ("the workman" in short) and the management of WCL ("Party No. 1" in short) filed its written statement. The case of the workman as projected in the statement of claim is that he was appointed as a loader by party No. 1 on 1-11-1973 and later on, he was promoted to categories II, III, IV and V and worked as a loader continuously for more than 25 years, but the party no. 1 did not allow him on duty, which amounted to oral termination of his services and later on, party no. 1 manufactured and fabricated documents regarding conduct of domestic enquiry ex-parte against him including show cause notice and termination of his services w.e.f. 20-2-2001, without his knowledge and party No. 1 had also demoted him and changed his designation as Badli worker (loader) and such order was not communicated to him and prior to passing of such order, neither any show cause notice was issued nor any enquiry was made nor any warning letter was issued to him and such action of the party No. 1 was with mala fide intention and being harassed by party No. 1, he asked for voluntary retirement on the ground of his completing more than 20 years of service, but party No. 1 rejected his application

illegally and though the order of termination of his service was dated 20-2-2001, the same was issued to him on 20-1-2002, which was illegal, unjustified and improper. The further case of the workman is that before termination of his services, neither one month's notice nor one month's pay in lieu of notice nor any retrenchment compensation was given to him and before passing of the order of termination, neither any charge sheet was issued against him nor he was served with any show cause nor he was intimated about the appointment of the enquiry officer and he was not offered any opportunity to defend himself in the enquiry and he was also not given the opportunity of personal hearing before imposition of the punishment and copy of the enquiry report was also not communicated to him and as such, the so called ex parte enquiry was totally unfair and illegal and against the principles of natural justice and basing on such illegal enquiry, as the order of termination of his services was passed, the same can be held to be unjustified and improper and the punishment to be shockingly disproportionate and as the efforts taken by him for his reinstatement in service did not yield any result, he raised the industrial dispute.

The workman has prayed for his reinstatement in service with continuity and full back wages and to grant him VRS with pension and gratuity.

3. The party No. 1 in its written statement has pleaded inter-alia that the dispute was raised by Shri Ishwarkar, Advocate before the ALC (C), Chandrapur on behalf of the workman, claiming himself as the District Advisor of INTUC union and the party No. 1 had contacted the General Secretary and President of INTUC, Wani Area branch, who had informed that they had no district advisor and it had raised objection before the ALC (C), Chandrapur regarding raising of the dispute by Shri Ishwarkar, but the ALC, Chandrapur while holding conciliation and submission of failure report, did not verify the position and as such, the reference is ab initio void and bad in law and is not maintainable in law. It is further pleaded by party No. 1 that the conduct of the workman had been consistently unsatisfactory, as he was very much irregular in his work and had been remaining frequently absent and his poor performance in attendance was impairing production and while working as a loader, he started remaining absent from duty from 10-12-1997, without any sanctioned leave and without any intimation to the management and therefore, he was charge sheeted vide charge sheet dated 18-3-1998 and was asked to explain his conduct and a full scale departmental enquiry was held into the allegations, in which the charges were proved against him and on his written appeal for sympathetic consideration, instead of removing him from service, which would have been an appropriate punishment, he was allowed on duty as a Badli Loader with the stipulation to achieve the qualifying attendance in the calendar year vide office order dated 3-12-1989/3-1-1999 and the workman again started absenting

unauthorisedly from 25-11-1999, without sanctioned leave and without any intimation to the management and as his unauthorized absence exceeding 10 days was a misconduct under the relevant provisions of the certified standing orders, he was charge sheeted vide charge sheet No. 92 13 dated 11-12-1999 and was asked to explain his conduct and the workman submitted his written explanation in which he stated that due to family and personal reasons he had absented from his duty, but his explanation was not found satisfactory, therefore, a departmental enquiry was constituted for enquiring into the charge sheet vide office order dated 23/24-10-2000 and Shri S.A. Bhasha was appointed as the enquiry officer and the enquiry officer held the enquiry in which the workman fully participated and principles of natural justice were observed while holding the enquiry and the workman was given reasonable opportunity to defend himself and the enquiry was held in Hindi language and the proceedings were recorded in presence of the workman and though the workman was given the opportunity to avail the services of a co-worker, he said that he did not want a co-worker and would like to handle his case himself and management file documentary proof in presence of the workman and the workman was asked to question the presenting officer on those documents, which he declined and the workman was asked to produce documents and witnesses in his defence and he gave his own statement, which was confessional in substance and the enquiry was closed with the consent of both the parties and the enquiry officer submitted his report in which he analyzed the evidence produced and before him and came to a rational and logical finding by holding the workman guilty of the charges levelled against him and the workman was informed in writing vide letter No. 1367 dated 17-12-2000 that the charges levelled against him had been enquired in detail and the same had been fully proved, which might lead to his removal from service and the workman was advised that if he wanted to submit his explanation, then he could do so within 72 hours of its receipts and the workman submitted his written reply vide his letter dated 18-12-2000, in which he pleaded to be taken on duty and also assured of good conduct and of not repeating the same mistake in future, but considering his past records, it was considered fit to terminate his services and accordingly, his services were terminated vide order of termination dated 19/20-2-2001 making it effective from 22-2-2001 and the said action was with the approval of the competent authority and the enquiry held against the workman was just, fair and proper and termination of his services was perfectly legal and justified and the question of voluntary retirement is not concerned with the departmental enquiry and has no relevancy and the workman was all along a loader and he was never in categories II, III, IV and V and as a loader, he always remained in piece rate and as the case of the workman was one of termination of services as a result of disciplinary proceedings, there was no question of giving advance

notice, payment of retrenchment compensation or question of seniority or juniority and there was no ex-parte enquiry and show cause notice was issued to the workman before the imposition of punishment and the workman submitted his reply and the punishment is not shockingly disproportionate and the workman is not entitled to any relief.

4. As this is a case of termination of the services of the workman after holding of a departmental enquiry, the fairness of the departmental enquiry was taken for consideration as a preliminary issue and by order dated 18-7-2007, the enquiry was held to be proper, legal and in accordance with the principles of natural justice.

5. At the time of argument, it was submitted by the learned advocate for the workman that prior to the termination of the services of the workman, he had already worked as a loader for 24 years and his service record was clean and his conduct was good and without any warning, the workman was suddenly terminated from service, on the ground of absenteeism, which is not covered under misconduct according to NCWA or the conduct rules of WCL and the enquiry was conducted ex-parte and the enquiry conducted was against the principles of natural justice and before imposition of the punishment, the unblemished service record of the workman was not considered and the punishment imposed is shockingly disproportionate and the workman was entitled for VRS, but party No.1 did not allow him to take voluntary retirement and the workman is entitled to reinstatement in service and to get all the consequential benefits.

6. Per contra, it was submitted by the learned advocate for the party No. 1 that in this case, it is already decided that the departmental enquiry held against the workman was fair and in accordance with the principles of natural justice and so far the perversity of the findings of the enquiry officer and proportionality of the punishment are concerned, the workman has not mentioned a single word about the perversity of the findings in the statement of claim, which is the basic document presenting his case and when the workman has not raised any question regarding the perversity of the findings, the question of deciding the said issue in his favour does not arise. It was also submitted by the learned advocate for the party No. 1 that the report of the enquiry officer is based on the evidence on record of the enquiry proceedings and not on any extraneous factor and the enquiry officer has analyzed the evidence in an objective manner and has come to rational and logical finding and there is no element of perversity in his report and the misconduct of absenteeism on the part of the workman was of repetitive nature and he had already been dealt with leniency in the past and considering the seriousness of his misconduct and unsatisfactory past record, he was rightly and appropriately terminated from service and the punishment is proportionate to the proved act of misconduct and the same does not shock the

conscience and therefore, there is no scope to interfere with the punishment:

In support of the contentions, the learned advocate for the party No.1 placed reliance on the decisions reported in 1994 LAB IC-762 (Managing Director, ECIL, Hyderabad Vs. N. Karunakar), AIR 1965 - SC-155 (Tata Oil Mills Co. Ltd. Vs. The workman), 2001 LAB IC-2376(SC) (Syed Rahimuddin Vs. Director General, CSIR), AIR 1972-SC-2182 (M/s. The Benaras Electrical Light & Power Co. Ltd. Vs. The Labour Court II, Lucknow), 1996 LAB IC-462 (B.C. Chaturvedi Vs. Union of India), 2003 LAB IC-757 (Regional Manager, UPSRTC Vs. Hotilal), 2005 LAB IC-4158 (V. Ramana Vs. APSRTC), 2005 LAB IC-854 (Bharat Forge Co. Ltd. Vs. Uttam Manohar Nakte) and 2005 LLR-360 (Mahindra & Mahindra Vs. N.B. Naravade).

7. At the outset, I think it necessary to mention at the cost of repetition that in this case, it is already been decided that the departmental enquiry held against the workman is proper and in accordance with the principles of natural justice. It is also found from the materials on record that the departmental enquiry was not conducted ex-parte against the workman and the workman had taken part in the enquiry completely and his services were terminated by the written order dated 19/20-2-2001. As the punishment of termination of the services of the workman was inflicted by way of disciplinary action, the same is not a retrenchment as defined under section 2(oo) of the Act and therefore, there was no question of giving one month's notice or one month's pay in lieu of notice or retrenchment compensation as claimed by the workman in the statement of claim and submitted by the learned advocate for the workman in the argument. Hence, with respect, I am of the view that the decisions reported in 2010 I CLR-849 (Executive Engineer Vs. Pandharinath Chindu Kale) and 2007 II CLR 564 (Ram Narain Vs. Management of M/s. Delhi State Civil Supplies Corpn. Ltd.) which deal with sections 25- F and 25- B of the Act and 2007 (1) Bombay LC (400)(BOM) (Union of India Vs. Vasant Namdeo Tayade), which is a case of oral termination of a workman, who had put in more than 12 years of service, on which reliance has been placed by the learned advocate for the workman have no application to the present case at hand.

8. In the statement of claim, the workman has challenged about his demotion from loader to Badli loader and rejection of his application for voluntarily retirement and has prayed for direction to the party no. 1 for VRS and payment of pension and gratuity accordingly. The learned advocate for the workman also submitted to extend VRS benefits to the workman. However, in this case, the reference is in regard to adjudication of the industrial dispute regarding the legality or otherwise of the termination of the services of the workman, a badli loader by order dated 20-1-2001 by party No. 1. It is well settled that the Tribunal cannot go beyond the schedule of reference and is not competent to decide any extraneous issue raised by the

parties. Hence, the issue of conversion of the workman to Badli loader or rejection of his VRS application cannot be decided in this reference. Moreover, it is clear from the materials on record that the workman was allowed to work as Badli loader as a punishment imposed against him in the disciplinary proceeding initiated on the basis of the charge sheet submitted against him dated 18-3-1998, which was not challenged by the workman before the ALC. The rejection of the application of the workman for voluntary retirement is no way relevant to decide the reference. Moreover, the same was also not challenged by the workman in the proper forum. Hence, it is held that the contentions raised by the workman on that scores have no merit.

9. Admittedly, the workman has not challenged the findings of the enquiry officer in the statement of claim. Moreover, on perusal of the documents of the departmental proceedings held against the workman, it is found that the workman was charge sheeted under clause 26.30 of the Certified Standing Orders of WCL, for remaining absence from duty without sanctioned leave or sufficient cause for more than ten days and the workman submitted his reply to the charge sheet admitting about his remaining absent, due to the marriage negotiation of his daughter and financial problem and the workman took part in the enquiry and on 21-11-2000, he admitted the charge leveled against him categorically stating that he remained unauthorized absent from 25-11-1999 till 17-12-1999, when the enquiry officer read over and explained the contents of the charge to him. It is also found that the workman in the statement given by him in his defence admitted about such absence. On perusal of the report of the enquiry officer, it is found that his report is based on the evidence adduced in the departmental proceedings and not on any extraneous material. The enquiry officer has analyzed the evidence produced before him and has assigned cogent reasons in support of such findings. Hence, the findings of the enquiry officer cannot be said to be perverse.

10. So far the proportionality of the punishment is concerned, on perusal of the evidence on record, it is found that the workman in his reply to the second show cause notice had requested to take him on duty and had given undertaking not to commit the mistake again. Grave misconduct of remaining unauthorized absence has been proved against the workman in a properly conducted departmental enquiry. Previously also, the workman had been punished for similar misconduct. The punishment of termination of services of the workman, therefore, cannot be said to be shockingly disproportionate. Applying the principles enunciated by the Hon'ble Apex Courts in the decisions cited by the learned advocate for party no. 1 that, "Court or Tribunal cannot interfere with direction exercised by competent authority in imposition of punishment, unless the same suffers from illegality or procedural irregularity of material nature or punishment is shockingly disproportionate", to the present case at hand,

it is found that there is no scope to interfere with the punishment imposed against the workman. Hence, it is ordered:—

ORDER

The action of the management in relation to Nakoda Incline of Ghugus Sub Area of Western Coalfields Limited in terminating the services of Shri Kurusingh Mallayya Muttayya, Badli Loader vide officer order No. WCL/WA/MGR/N/PER/01/3117 dated 20-2-2001 is legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1710.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 08/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/461/1995-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S.O. 1710.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 08/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 25-4-2012.

[No. L-22012/461/1995-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/08/2003

Date: 9-4-2012

Party No. 1: The Sub Area Manager,
WCL PO: Silewara, Distt. Nagpur

Versus

Party No. 2: The General Secretary,
Lal Zanda Coal Mines Mazdoor Union,
Ganjipeth, Ganesh Chowk, Nagpur (MS)
Pin: 440001.

AWARD

(Dated: 9th April, 2012)

In exercise of the powers conferred by clause (d) of

sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and their three workmen, for adjudication, as per letter No. L-22012/461/95-IR (C-II) dated 22-10-2002, with the following schedule:—

"Whether the demand of Union for pay protection as per tripartite settlement dated 2-11-1992 for 3 workmen, viz., Shri Shakil Isarail Ansari, Shri Shaukat Ali and Shri Sanwar Fazal Ansari on conversion from piece rated loaders to time rated worker is legal and justified? If yes, to what relief they are entitled to?"

On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, "Lal Zanda Coal Mines Mazdoor Union", ("the union" in short) on behalf of the 3 workmen, Shri Shakil Isarail Ansari, Shri Shaukat Ali and Shri Sanwar Fazal Ansari, ("the workmen" in short), filed the statement of claim and the management of the WCL ("Party No. 1" in short) filed its written statement.

The case of the workmen as projected in the statement of claim is that the party no. 1 employs two categories of workmen, namely, piece rated category and time rated and monthly rated category and the wages of the piece rated workmen is more than that of the time rated and monthly rated workmen and the workmen employed as loader by the management are treated as piece rated workmen and are paid per day wages of piece rated category and they were appointed as loaders in the piece rated category and were continued to work in the same category in Sillewara Mines till 1992 and during the period from May 1992 to November 1992, they agreed for mutual change of job with other time rated workmen and accordingly, by separate office orders issued by party no. 1, they were inducted in time rated category I post and the party no. 1 started paying the wages of time rated category to them, which was much less than the wages paid to the piece rated category and party no. 1 had allowed protection of pay to some of the similarly placed workmen of the colliery, whereas, the said benefit was arbitrarily denied to them and they made representation to the management about their entitlement of protection of piece rated wages, in consistent with the policy adopted by the management and also in accordance with the settled principles of law, but management failed to consider their genuine and legitimate claim. The further case of workmen is that there are as many as five unions operating in WCL and they are members of Lal Zanda Coalmines Mazdoor Union (CITU) and they were never the members of the union Rastriya Koyla Khadan Mazdoor Sangh (INTUC) and in October 1992, the INTUC served a strike notice to the WCL management for fulfillment of 10 points charter of demand and amongst others, one of the demands was for filling

50% vacancies in time rated category from amongst the piece rated workmen and to protect the group wages including the fringe benefits on conversion from piece rated category to time rated category of the concerned workmen and on receiving the strike notice, conciliation proceedings were initiated, which ended in settlement of the said dispute on 2-11-1992 and the settlement so arrived between the INTUC and the WCL management inter-alia stipulates that the management shall on conversion from piece rated to time rated will fully protect the group wages including SPRA wherever applicable and the basic pay so fixed in the time rated category/grade if exceeds the maximum of the category/grade, the balance will be treated as personal pay to the person concerned which shall be adjusted in the subsequent revision of pay/promotion and the decision shall be effective from 1-1-1992 and the cases already converted between 14-11-1990 to 31-12-1991 shall be considered for notional fixation only and earlier cases will not be considered and after the said settlement, their union made representation to party No. 1 about their entitlement for protection of their group wages consequent upon their conversion from piece rated job to time rated job in terms of clause 1.3 of the settlement and therefore, there was no valid reason for the party No. 1 of denying them the protection of their group wages, but the party No. 1 failed to consider the representation of the union, though the party no. 1 gave such wage protection even to several other workmen converted to time rated from piece rated category even before 14-11-1990 and as they are members of CITU union, they have been singled out and denied the pay protection in an arbitrary manner and as such, they raised the industrial dispute.

The workmen have prayed for a direction to the party No.1 to grant wage protection to them from the date of their conversion from piece rated category to time rated category with full back wages and consequential benefits.

3. The party No.1 in its written statement has pleaded inter-alia that the reference is not maintainable as the same has been filed with a view to gain unlawful gains and the workmen have concealed various facts and have made misinterpretation of law and therefore, the reference is liable to be dismissed. The further case of the party no.1 is that the three workmen were initially appointed as casual workmen and worked as casual piece rated mazdoor and subsequently they were regularized as piece rated loader and the work of a loader is very tough and he is paid as per the work done and if the output of the loader is more, then the loader is entitled to more pay than the minimum prescribed by the management and as such, the loaders are called as piece rated workmen and the loaders are paid more than the time rated workmen, as the work entrusted to time rated workmen is much lighter than the work of a piece rated workmen and all the three workmen approached the management in the year 1992 and expressed their inability to cope up with the job of piece rated workmen and

requested for their posting as time rated workmen and the re-designation of the said workmen was done as per their request and not by the management on its own and as the case of the workmen is one of consent posting, additional benefits cannot be granted to them and they are not entitled to pay protection. The further case of the party No. 1 is that the three workmen signed the undertaking/declaration on 4-5-1992, 13-11-1992 and 2-7-1992, wherein, they have agreed that they shall not raise any such dispute before any forum whatsoever and on the basis of such declaration, the workmen were posted as MMI in place of loaders and the declarations submitted by the workman were voluntary and the principles of promissory estoppels are applicable and the workman cannot be back out from the promise made by them and the workman at the instigation of the union have been raising fictitious claims which have no significance in the eyes of law and the conversion of the workmen was mutual and by their own consent and the conversion was not made by the management for administrative exigencies or for any other reason whatsoever and as such, the settlement dated 2-11-1992 has no application to their cases and the plea raised by the workmen is not tenable and the workmen were paid the salary prescribed by the management after their conversion and they accepted the same without any demur or complaint and order of reversion has become final and the workmen have raised a stale claim and the dispute was raised for the first time in the year 1995, after a period of over three years and the same cannot be entertained. It is also pleaded by the party No. 1 that it has never allowed protection of pay to some other workmen similarly placed as alleged and pay protection is given only to workmen, who have been transferred due to certain disability or injury caused on duty, as per the standing order of the management and not otherwise and the workmen have misinterpreted the contents of the settlement and the workmen are not entitled to any relief.

4. The workmen have examined workman, Soukat Ali as a witness in support of their claim, besides placing reliance on documentary evidence. No oral evidence has been adduced by party No. 1.

The examination-in-chief of Soukat Ali is on affidavit. In his examination-in-chief, Soukat Ali has reiterated the facts mentioned in the statement of claim. However, in his cross-examination, he has admitted that he himself and the two other workmen had applied for conversion from piece rated to time rated job and in paragraph 3 of the statement of claim, it has been mentioned that during the period from May 1992 to November 1992, they had agreed to mutual change of job with other time rated workmen and accordingly, by separate office orders issued by party No. 1, they were inducted in time rated category-I post and he cannot say if Shri Bhaskar and Shri Sudhakar were converted from piece rated to time rated as they sustained injuries, while working as piece rated worker in the mine.

5. At the time of argument, it was submitted by the learned advocate for the workmen that the workmen are entitled for protection of their wages in view of clause 1.3 of the settlement dated 2-11-1992 and management has given such protection to other similar workmen, such as Shri Bhaskar and Shri Sudhakar and the workmen have been discriminated and as such, they are entitled for protection of their wages from the date of their conversion and to get the arrears and other consequential benefits.

6. On the other hand, the learned advocate for the party No. 1 submitted that the conversion of the workmen from piece rated category to time rated category was done with the consent of the workmen and such conversion was not made by the party No. 1 for any administrative exigency or for any other reason and the workmen have submitted undertaking at the time of their conversion not to raise such dispute and clause 1.3 of the settlement dated 2-11-1992 is not applicable to their case and they are not entitled for pay protection. In support of such contention, the learned advocate for the party No. 1 placed reliance on the decision of the Hon'ble High Court of Judicature of Bombay, Nagpur Bench, Nagpur passed in writ petition No. 4662/2006 passed on 5-8-2010.

7. Perused the evidence adduced by the workmen in support of their claim. The copy of the settlement dated 2-11-1992, office orders regarding conversion of the workmen dated 4-5-1992, 2-7-1992 and 13-11-1992 and office order regarding the conversion of Bhaskar and Sudhakar have been exhibited as Exts. W-I to W-VI respectively. The copy of the pay fixation form of Bhaskar and Sudhakar and the copy of the two letters submitted by Soukat Ali protesting about payment of wages of time rated scale for July 1992 and August 1992 have been marked as Exts. W-VII to W-X respectively.

On perusal of the settlement dated 2-11-1992, it is found that the management had agreed to give pay protection to the workmen on conversion from PR to TR/MR, wherever applicable. However, Exts. W-II, III and IV show that the three workmen mutually changed their jobs with other time rated workmen and at the time of conversion, they gave declaration voluntarily that they will not raise any dispute either individually or through any union in any forum in future and accept the initial basic wages of category-I General Mazdoor. In view of the fact that the workmen mutually changed their job and undertook to accept the basic wage of category - I of General Mazdoor, the provision of clause 1.3 of the settlement dated 2-11-1992 has no application to their case and they are not entitled for protection of their wages of piece rated category under the said clause. Exhts. W-VII and W-VIII are the copies of pay fixation statement of Bhaskar and Sudhakar respectively. According to the workmen, Bhaskar and Sudhakar were also converted to time rated category like them, but Bhaskar and Sudhakar were given pay protection, whereas, party No. 1 did not give such protection to them.

However, on perusal of Exts. W-VII and W-VIII, it is found that the wages of Bhaskar as on 1-3-1992 was Rs. 104.93 + Rs. 8.72, but his pay was fixed at Rs. 99.96 on 1-12-1992, on his conversion from PR to TR and the pay of Sudhakar was Rs. 104.93 as on 1-1-1992, but on his conversion from PR to TR on 2-11-1992, his pay was fixed at Rs. 91.32 paise. From the said documents, it is found that Bhaskar and Sudhakar were also not given any pay protection as claimed by the workmen.

From the materials on record and the discussions made above, it is clear that the workmen are not entitled to get pay protection as per the settlement dated 2-11-1992, on their conversion from piece rated category to time rated category. Hence, it is ordered:—

ORDER

The demand of Union for pay protection as per tripartite settlement dated 2-11-1992 for 3 workmen viz., Shri Shakil Isarail Ansari, Shri Shaukat Ali and Shri Sanwar Fazal Ansari on conversion from piece rated loaders to time rated worker is legal & justified. The Workmen are not entitled to any benefit.

I.P. CHAND, Presiding Officer

नई दिल्ली, 25 अप्रैल, 2012

का.आ. 1711.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 226/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 25-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/291/2002-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 25th April, 2012

S.O. 1711.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 226/2003) of the Central Government Industrial Tribunal, Nagpur as shown in the Annexure, in the industrial Dispute between the management of Chandrapur Area of Western Coalfields Ltd. and their workmen, which was received by the Central Government on 25-4-2012.

[No. L-22012/291/2002-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

No. CGIT/NGP/226/2003

Date: 11-4-2012

Advocate for the management is present None appears on behalf of the Petitioner. No step has also been favour on behalf of the petitioner it appears that petitioner is not interested to proceed with the case. Hence put up later on for orders.

Party No. 1

The Chief General Manager,
Chandrapur Area of WCL,
PO. & Distt. Chandrapur
Maharashtra

Versus

Party No. 2

S.R. Pendre, Gen. Secretary
Lal Bawta Koyala Kamgar Union,
Bhiwapur, Ward No. 27,
PO & Distt. Chandrapur.

This is a reference made by the Central Government for adjudication of the industrial dispute between the employers in relation to the management of Chandrapur Area of WCL, and their workman, Sheikh Abad Khan, for adjudication, as per letter no L-22012/291/2002-IR (CM-II) dated 13-10-2003, with the following schedule :

“Whether the action of the management in relation to Chandrapur Area of WCL in reducing the pay of Sh. Abad Khan son of Ahmed Khan, Loader, consequent upon his transfer from Durgapur Rayawari Colliery to Bharadi OCM of WCL vide office order No. 3482 dated 9/11-6-2000 is legal and justified? If not, to what relief the workman is entitled?”

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman Sh. Abad Khan, (“the workman” in short) filed the statement of claim and the management of WCL (“party No.1” in short) filed the written statement.

The workman had claimed that he was entitled for protection of his wages and SPRA of Tub-loader and had prayed to direct the party No.1 to give such protection.

3. The party No. 1 in the written statement denied the allegations made in the statement of claim and pleaded inter alia that the workman was not entitled for protection of his group wages with SPRA of Tub-loader, after his conversion as a Helper category-II.

4. It is necessary to mention here that during the pendency of the reference, the workman died. The management intimated about the death of the workman to the Tribunal. So, notice was issued to the workman and the union to appear in the case. It was intimated by the management that the workman before his death was subsequently declared medically unfit and the son of the workman was given employment on compassionate ground and also filed documents in support of the same. After notice, one Riyaz Khan claiming himself to be son of the workman appeared in the case and took time to bring the legal heirs of the workman on record. However, subsequently the said Riyaz Khan did not appear and the

legal heirs of the deceased workman were not brought on record. It is also found from the record that one Meroj Khan son of late Abad Khan has been appointed as a General Mazdoor.

5. As none appeared on behalf of the petitioner to contest the case, the case was closed as per order dated 11-4-2012.

6. As from the facts mentioned above, it appears that the petitioner is not interested to proceed with the case and as the original workman has already died and substitution of the legal heirs of the deceased workman has not been made, a no dispute award is required to be passed in this case. Hence, it is ordered :

ORDER

The reference be treated as no dispute award

J.P. CHAND, Presiding Officer

नई दिल्ली, 26 अप्रैल, 2012

का.आ. 1712.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 64/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-4-2012 को प्राप्त हुआ था।

[सं. एल-12012/97/2008-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 26th April, 2012

S.O. 1712.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India, and their workmen, received by the Central Government on 26-4-2012.

[No. L-12012/97/2008-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BHUBANESWAR****Present :**

Shri J. Srivastava,
Presiding Officer, C.G. I.T. -cum-Labour Court,
Bhubaneswar

Industrial Dispute Case No. 64/2008

Date of Passing Award - 10th April, 2012

Between :

The Assistant General Manager,
State Bank of India, Bhubaneswar
Main Branch, Bhubaneswar,
Dist. Khurda (Orissa)

... 1st Party-Management

and

Their workman Sri Banamali Parida,
Qrs. No. VR-5/1, Kharvela Nagar, Unit-3,
Bhubaneswar (Orissa)

... 2nd Party-Workman

APPEARANCES :

Shri Alok Das, ...For the 1st Party
Authorized Representative Management

None : ...For the 2nd Party
Workman

AWARD

The Government of India in the Ministry of Labour has referred the present dispute existing between the employers in relation to the Management of State Bank of India and their workman under clause(d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act vide their Letter No. L-12012/97/2008-IR (B-I), dated 6-10-2008 to this Tribunal for adjudication to the following effect :

Whether the action of the management of State Bank of India, Main Branch, Bhubaneswar in terminating the services of Sri Banamali Parida w.e.f. 30-9-2004 without complying the provisions of the I.D. Act, 1947 is legal and justified? To what relief is the workman concerned entitled?

2. The 2nd Party-Workman has filed his statement of claim alleging that he had joined his services as a Messenger in May, 1991 after succeeding in interview. He was assured to get permanent appointment order after one year or on completion of 240 days' work in a calendar year, but despite completion of several years of continuous satisfactory service and putting in more than 240 days' work in each year he was not regularized, instead terminated and refused employment from 30-9-2004 by the 1st Party-Management without any written communication or payment of compensation. The 1st Party-Management in refusing employment to him violated all principles of natural justice and mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. He therefore brought the matter into the notice of the C.G.M. and C.D.O. of the State Bank of India, L.H.O., Bhubaneswar. But on hearing nothing, he raised an industrial dispute before the Regional

Labour Commissioner (Central) vide his letter dated 29-10-2007. Conciliation proceedings were started, but they failed and thereupon a failure report was submitted to the Government and the Government made the present reference. He is thus entitled to get full back wages and reinstatement with continuity of service with effect from 30-9-2004.

3. The 1st Party-Management in its reply through written statement has stated that the present dispute is misleading and misconceived in as much as the 2nd Party-workman had already raised a similar dispute along with 124 other workers through the State Bank of India Temporary 4th Grade Employees Union before the Assistant Labour Commissioner (Central), Bhubaneswar challenging their alleged termination of service by the 1st Party-Management. In the said dispute the failure report was sent to the Asstt. Labour Commissioner (Central), Bhubaneswar to the Ministry of Labour who in turn referred the matter to this Tribunal for adjudication and the same is pending before this Tribunal being I.D. Case No. 7/2007. The name of the 2nd Party-workman is appearing at Sl. No. 48 in Annexure-A to the said reference. Thus, raising a common dispute for same cause of action and again raising individual dispute for same relief is nothing but an abuse of the process of law and amounts to multiplicity of litigation. The Asstt. Labour Commissioner (Central) while conciliating the individual disputes disregarded the direction of the Deputy Chief Labour Commissioner (Central) not to take any further action on the separate disputes raised by the same workers for the same cause of action. The allegation of the 2nd Party-workman that he was discontinued from service on 30-9-2004 and was singing bogus vouchers is not correct. He was engaged intermittently on temporary/daily wage basis due to exigencies of work. It is denied that he had joined the Bank in May, 1991 and was performing the duty, which is regular and perennial in nature. It is further denied that he was performing his duties with all sincerity and honesty and to the best of satisfaction of the Authority. The 2nd Party-workman has never completed several years of continuous service in the Bank nor he has completed 240 days of continuous service in any calendar year preceding the date of his alleged termination. In order to give and opportunity for permanent absorption to the ex-temporary employees/daily wagers in the Bank in view of the various settlements entered into between the All India State Bank of India Staff Federation and the Management of the State Bank of India all eligible persons were called for interview. The 2nd Party-workman was also called for an interview along with other eligible persons in the year 1993. As he was not found successful in the said interview he could not be appointed in the Bank. The Union or the 2nd Party-workman has never challenged the implementation of the settlement which has now gained finality. It is further submitted that some of the wait listed candidates, who could not be absorbed in the Bank's service due to expiry

of the panel on 31st March, 1997 filed Writ Petitions before the Hon'ble High Court of Orissa. But the Hon'ble High Court of Orissa by a common order dated 15-5-1998 passed in O.J.C. No. 2787/1997 dismissed a batch of Writ Petitions and upheld the action of the Management of the Bank. This order of the Hon'ble High Court was also upheld by the Hon'ble Supreme Court of India in S.L.P. No. CC-3082/1999. Hence the above matter has attained finality and cannot be re-agitated. Since the services of Sri Parida were terminated in the year 2004 his claim has become stale by raising the dispute after lapse of a period of 10 years. It is a settled principle of law that delay destroys the right to remedy. Thus raising the present dispute after 10 years of alleged termination is liable to be rejected.

4. On the pleadings of the parties following issues were framed :—

ISSUES

1. Whether the present reference of the individual workman during the pendency of the I.D. Case No. 7/2007 before this Tribunal on the same issue is legal and justified?

2. Whether the workman has worked for more than 240 days as enumerated under Section 25-F of the Industrial Disputes Act ?

3. Whether the action of the Management of State Bank of India, Main Branch, Bhubaneswar, in terminating the services of Shri Banamali Parida with effect from 30-9-2004 without complying the provisions of the I.D. Act, 1947, is legal and justified?

4. To what relief is the workman concerned entitled?

5. The 2nd Party-workman despite giving sufficient opportunity did not produce any evidence either oral or documentary in support of his claim and willingly kept himself out of the proceedings at the stage of evidence by absenting himself or his Union representative.

6. The 1st Party-Management has adduced the oral evidence of Shri Krupasindhu Nayak as M.W.-1 and filed documents marked as Ext.-A to Ext.-J in refutation of the claim of the 2nd Party-workman.

FINDINGS

Issue No. 1

7. A specific plea has been raised by the 1st Party-Management that a group of 125 employees including the 2nd Party-workman had already raised a similar dispute in I.D. Case No. 7/2007 before this Tribunal for the same relief which is pending for adjudication. The dispute as referred to in I.D. Case No. 7/2007 is given below for comparison with the dispute in the present case :

Whether the action of the Management of State Bank of India, Orissa Circle, Bhubaneswar in not considering the case of 125 workmen whose details are in Annexure-A for re-employment as per Section 25(H) of Industrial Dispute

Act, 1947 is legal and justified? If not, what relief the workman are entitled to ?

8. The name of the 2nd party-workman appears at Sl. No. 48 in Annexure-A to the above reference. In both the cases the matter of disengagement or so called retrenchment is involved to be considered in one or the other way and the relief claimed is with regard to re-employment. But challenge has been made more specifically against the termination of service of the 2nd Party-workman in the present case while in I.D. Case No. 7/2007 prayer has been made with regard to consideration of the case of 125 workmen for re-employment as per Section 25-H of the Industrial Disputes Act, 1947. In fact, in the latter case the workman have submitted or virtually surrendered to their cessation of employment or alleged termination, whereas in the present case they have challenged their termination on facts and law. Virtually in the present case validity and legality of the alleged termination has to be tested at the alter of facts and legal propositions. Therefore it cannot be said that issues involved in both the cases are same. This case can proceed despite pendency of I.D. Case No. 7/2007 and the present reference by the individual workman pending for adjudication is maintainable being legal and justified. This issue is therefore decided in the affirmative and against the 1st Party Management.

Issue No. 2

9. The onus to prove that the 2nd Party-workman has completed one year or 240 days of continuous service during a period of 12 calendar months preceding the date of his alleged termination or disengagement from service lies, but the 2nd Party-workman has not adduced any evidence either oral or documentary in support of his contention. He has only alleged in his statement of claim that he was appointed in the month of May, 1991 and worked till 30-9-2004 on temporary/casual/daily wage basis, but he has not filed any certificate or reliable document showing the break-up of year-wise service rendered by him under the 1st Party-Management during the above period. The 1st Party-Management, on the other hand, has alleged that "The 2nd Party-workman was engaged intermittently on temporary/daily wage basis due to exigencies of work and he had never completed 240 days continuous service in a calendar year. M.W.-1 Shri Krupasindhu Nayak in his statement before the Court has stated that "the disputant was working intermittently for few days in our branch on daily wage basis in exigencies He had not completed 240 days of continuous and uninterrupted service preceding the alleged date of the termination". He has denied the allegation that the workman was discontinued with effect from 30-9-2004, but stated that "In-fact the workman left the Branch from working since December, 1991". The 2nd Party-workman has to disprove the evidence led by the 1st Party-Management, but he has not come before the Court to give evidence. A temporary or daily wage worker has no right to claim reinstatement

and particularly when such an employee had not worked for 240 days continuously during a period of 12 calendar months preceding the date of his so-called termination. Thus he is not entitled to get benefit of Section 25-F of the Industrial Disputes Act, 1947. This issue is hereby decided against the 2nd Party-workman of failing to prove that he had worked for 240 days continuously during a period of 12 calendar months preceding the date of this disengagement or alleged termination from service.

Issue No. 3

10. Since the 2nd Party-workman could not prove that he had rendered 240 days continuous service under the 1st Party-Management during a period of 12 calendar months preceding the date of his disengagement or alleged termination, he is not entitled for re-employment even in case of his alleged illegal and arbitrary termination. Moreover, he was a temporary/casual/daily wage employee. His services can be terminated at any time without assigning any cause by the 1st Party-Management. He has no legal right to be retained in service for the extended period, if he was appointed for a certain period or when no time is specified. The 2nd Party-workman has not filed any letter of appointment or proof of having rendered service under the 1st Party-Management for a specified period against a regular post. The 1st Party-Management has further alleged that in time of exigencies only the 2nd Party-workman was employed. It means that with the end of exigencies his job also came to an end. In view of the matter the action of the management of State Bank of India, Main Branch, Bhubaneswar in terminating the services of Sri Banamali Parida with effect from the alleged date of his termination is fair, legal and justified. This issue is accordingly decided in the affirmative and against the 2nd Party-workman.

Issue No. 4

11. In view of the findings recorded above under Issues No. 2 and 3 the 2nd Party-workman is not entitled to any relief whatsoever claimed.

12. Reference is answered accordingly.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 26 अप्रैल, 2012

का.आ. 1713.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, चंडीगढ़ के पंचाट (संदर्भ संख्या 421/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 9-4-2012 को प्राप्त हुआ था।

[सं. एल-12011/234/2002-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 26th April, 2012

S.O. 1713.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 421/2005) of the Central Government Industrial Tribunal/Labour Court-II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 9-4-2012.

[No. L-12011/234/2002-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, CHANDIGARH

Present: Sri A.K. Rastogi, Presiding Officer

Case No. I. D.421/2005

Registered on 19-8-2005

The General Secretary, All India Bank Staff Association, 33-34, Bank Enclave, Ring Road, Rajouri Garden, New Delhi.

.... Petitioner

Versus

The Regional Manager, Central Bank of India, Jawahar Market, Model Town, Rohtak, Haryana.

.... Respondent

APPEARANCES

For the Workman : Sh. Manjit Dhiman

For the Management : Sh. N.K. Zakhmi

AWARD

Passed on 22 March, 2012

Central Government vide Notification No. L-12011/234/2002-IR (B-II) dated 25-4-2003, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial Dispute for adjudication to this Tribunal:—

“Whether the action of the management of Central Bank of India to discharge, Sh. Om Prakash, Peon from service w.e.f. 15-3-2001 is just and legal? If not, what relief the workman is entitled?”

Admittedly at the relevant time the workman was posted at NIT Faridabad as Cash Messenger. On 29-4-1999 he was charge sheeted for abusing in unprintable language and slapping the Branch Manager, C.R. Anand and after inquiry was discharged from service with superannuation, benefits w.e.f 15-3-2001 vide order dated 12-3-2001.

The case of the workman as stated in the claim statement is that he was falsely implicated in the case and

he was not allowed the facility of defence representative. At first he had been allowed to be represented by J.N. Kapoor the General Secretary of a Trade Union-All India Bank Staff Association (hereinafter called, 'Union'). But subsequently the permission was withdrawn by the Inquiry Officer mala fide in connivance with the 'rival union, the Presenting Officer and complainant Branch Manager C.R. Anand. The workman made a representation to the Disciplinary Authority in this regard but that was of no avail. The Inquiry Officer held the inquiry on various dates without permitting the authorized representative of the workman. In this regard Government of India vide its Notification No.L-12811/287/2000, dated 22-3-2001 has referred the following dispute to Central Government Industrial Tribunal, Chandigarh for adjudication—

"Whether the action of the management of Central Bank of India in denying the right of equal opportunity to get the case of Sh. Om Prakash defended by the General Secretary of the All India Bank Staff Association during the Departmental Enquiry proceedings is just and legal? If not, what relief the workman is entitled to?"

The above dispute is pending before the Presiding Officer Central Government Industrial Tribunal; Chandigarh for adjudication but the management very well aware of the pendency of the said dispute acted hastily and discharged the workman w.e.f. 15-3-2001. The workman has alleged that the inquiry was sham and was held against the principles of natural justice without providing any opportunity to the workman to defend himself. He has claimed his reinstatement with back wages and all consequential benefits.

The claim was contested by the management and it was contended that on the request of workman that he will be represented by J.N. Kapoor, General Secretary of the Union, the Inquiry Officer had directed him to produce the documents to show that J.N. Kapoor was the General Secretary of the Union. On producing the documents by the workman the Inquiry Officer had allowed J.N. Kapoor to represent the workman but subsequently, the Presenting Officer brought to the notice of the Inquiry Officer that the certificate of membership of the workman is dated 4-8-1999 and the certificate of registration is dated 4-6-1999, whereas the charge sheet is dated 29-4-1999 and the first notice regarding the inquiry is dated 9-6-1999 and thus the workman was not a member of the Union and nor the union was a registered Trade Union when the charge sheet was issued to the workman; and requested the Inquiry Officer for not allowing J.N. Kapoor to represent the workman. The Inquiry Officer after hearing the parties disallowed J.N. Kapoor to represent the workman. Workman was however allowed opportunity to engage another defence representative but the workman failed to bring another representative and submitted to the Inquiry

Officer that he will himself defend the inquiry. He also requested to conduct the inquiry in Hindi. He failed subsequently also in bringing his representative despite various opportunities given to him and he himself defended the inquiry. The Inquiry Officer conducted the inquiry in a fair, proper, legal and bona fide manner giving full opportunity to the workman to defend and after receiving the report of the Inquiry Officer the disciplinary authority issued a show cause notice about the proposed punishment. He was also given opportunity of personal hearing. The workman replied to the show cause notice and also availed the opportunity of personal hearing. In his written reply he tendered unconditional apology for all that had happened. The disciplinary authority after considering the inquiry report the documents and submissions of the workman confirmed the penalty of discharge from service with superannuation benefits vide order dated 12-3-2001. The appeal preferred by the workman against the punishment order also failed. The action of the disciplinary authority and the appellate authority is legal, just, proper and in accordance with the Rules and Regulations and the claim of the workman has no merits.

The workman filed a replication to reiterate his case.

In support of his case workman examined himself while on behalf of management the Inquiry Officer K.L. Chabra was examined. The workman has filed copies of the representations made by him to the bank authorities and the management has produced a copy of the inquiry report.

I have heard the learned counsel for the parties and also perused the written arguments submitted on behalf of workman and have gone through the evidence on record.

The counsel for workman has argued that the management without calling the reply to charge sheet dated 29-4-1999 directly appointed the Inquiry Officer, workman was not given any opportunity to file reply to the charge sheet, copy of documents and list of witnesses were not supplied to the workman and six witnesses were examined by the management against the list of four witnesses submitted earlier and the Inquiry Officer in giving his findings believed the management, witness Virender while disbelieved defense witness Inder Mohan. The punishment awarded to the workman is very harsh, excessive and not according to the gravity of the misconduct.

It may be mentioned here that all these arguments have no support of pleadings. The relevant pleas in this regard have not been taken in the claim statement. Though the pleadings before the Industrial Tribunal are not to be read strictly, it is equally true that the pleadings must be such as to give sufficient notice to the other party of the case it is called upon to meet. Where a party seeks to establish a contention, which if proved would be

sufficient to deny relief to the opposite side, such a contention has to be specifically pleaded and proved. If there is no pleading, there is no question of proving something which is not pleaded. In other words; a contention, which is not pleaded even if there is evidence in support of it, cannot be examined because the other side has no notice of it; and, if entertained, it would tantamount to granting an unfair advantage to the first party.

Thus on the basis of the pleadings only following issues arise for consideration.

1. Whether the workman was denied a reasonable opportunity of defense by not permitting J. N. Kapoor to represent him?
2. Whether the conduct of the Inquiry Officer was biased?

My findings on various issues are as follows:-

Findings

Issue No.1

At the outset it may be mentioned that as per claim statement a reference about the dispute -

"Whether the action of the management of Central Bank of India in denying the right of equal opportunity to get the case and Sh. Om Prakash defended by the General Secretary of All India Bank Staff Association during the Departmental Enquiry' proceeding is just and legal? If not what relief the workman is entitled to?"

is subjudice before CGIT Chandigarh. Therefore I am not entering into the question of justifiability and legality of the management action in 'denying the right of equal opportunity to get the case of the workman defended by the General Secretary of the Union. I am confining myself to the question whether the workman was denied a reasonable opportunity of defence by not permitting J.N. Kapoor the General Secretary of the Union to represent him. Management may be or may not be justified in permitting J. N. Kapoor to represent the workman but the more important question is whether workman was provided a reasonable opportunity of defence or not?

As it was argued by the learned counsel for management as per provisions of Clause 19.12 (a)(i)(Y) of Bipartite Settlement, the workman could have been defended by a representative of a registered trade union of employees of the bank in which he was employed, if the workman was not a member of any trade union of bank employees on the date first notified for the commencement of the enquiry. But the workman did not avail this facility.

A perusal of the inquiry record shows that on 29-4-1999 after disallowing J. N. Kapoor to defend the workman the Inquiry Officer had advised the workman to, arrange his defence representative and the inquiry had

been adjourned for the day. On the next day i.e. 14-9-1999 the Inquiry Officer asked the workman whether he had brought, his defence representative or he would defend himself. The workman requested, for conducting the inquiry proceedings in Hindi and submitted that he could not arrange defence representative and for that purpose he may be allowed time. On his request the inquiry was adjourned to 6-10-1999. The next proceedings however took place on 13-10-1999. No defence representative was present on that day also. The workman tried to get the inquiry proceedings adjourned again on the pretext that he had written a letter to the disciplinary authority and the inquiry proceedings be stayed till a reply is received from the disciplinary authority. The workman had given a copy of the said letter to the Inquiry Officer. The Inquiry Officer after observing that the inquiry has already delayed and sufficient opportunity has been given to the workman and there is no justification for staying the inquiry, asked the Presenting Officer to proceed. The Presenting Officer produced the list of documents and list of witnesses. Further proceedings were adjourned. On the adjourned date the proceedings were conducted in the presence of the workman and three management witnesses' were examined. The workman cross-examined them. On the next date 12-11-1999 two more management witnesses were examined and duly cross-examined by workman. On the next date 15-11-1999 the inquiry was first adjourned till 2 p.m to enable the workman to participate in the inquiry and thereafter till next date when the workman did not appear. On the next date the workman appeared and submitted that he had moved to ALC Faridabad with regard to his defence representative and action had been taken in that case and he does not want to participate in the inquiry till a decision is taken with regard to his defence representative and inquiry be stayed till then. The Inquiry Officer declined to stay the inquiry until and unless a written order of a Court is produced and on the ground that the notice was not addressed to him, i.e. Inquiry Officer. Thereafter, sixth witness of management was examined and the workman duly cross-examined him also. Thereafter the workman was provided the opportunity of defence evidence and he produced two witnesses in defence also and produced some documents.

It is thus clear that the entire inquiry proceedings took place in the presence of the workman. He cross-examined the witnesses, produced the witnesses in defence and produced documents also. It is thus clear that though the workman was not allowed to be represented by J. N. Kapoor yet he had availed full opportunity of defence. No prejudice may be presumed to the workman by not permitting J.N. Kapoor to represent him. Issue No. 1 is decided against the workman.

Issue No. 2

It has been alleged by the workman that the conduct of the Inquiry Officer was biased. But no instance has

been pleaded about the biased attitude of the Inquiry Officer. The inquiry was conducted in a fair manner giving full opportunity to workman to defend himself and to present his case. He was accommodated where and when it was required. Workman has failed to prove that the conduct of the Inquiry Officer was biased. Issue No.2 is therefore decided against the workman.

From the above going discussion it is clear that the action of the management of Central Bank of India to discharge the workman from service is just and legal. Workman is not entitled to any relief.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 26 अप्रैल, 2012

का.आ. 1714.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलूर के पंचाट (संदर्भ संख्या 21/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 17-4-2012 को प्राप्त हुआ था।

[सं. एल-12011/188/2005-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 26th April, 2012

S.O. 1714.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2006) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 17-4-2012.

[No. L-12011/188/2005-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated: 2nd April 2012

Present : Shri S.N. NAVALGUND, Presiding Officer

C. R. No. 21/2006

I Party

The Central Committee
Member,
Bank of Maharashtra
Employees Union,
C/o Bank of Maharashtra,
Azad Road, Bijapur-586101

II Party

The Asstt. General
Manager,
Bank of Maharashtra
15, Police Station Road,
Baswangudi,
Bangalore

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has referred this dispute vide order No. L-12011/188/2005-IR (B-II) dated 17-5-2006 for adjudication on the following Schedule:

SCHEDULE

“Whether the action of the management of Bank of Maharashtra in terminating the services of Shri Dinesh Chandra is legal and justified and whether the management of Bank of Maharashtra has committed unfair labour practice as per Clause X, Schedule V of the Industrial Disputes Act, 1947? If so to what relief the workman is entitled?”

2. After receipt of the reference pursuant to the notices issued to both the sides the first party union as well as the second party entered their appearance through their respective advocates and the General Secretary of the first party union filed claim statement on 3-10-2006 whereas, the Chief Manager, Bangalore Region of the second party filed its counter statement on 26-3-2007. In the Claim statement filed by the General Secretary of the first party union it is alleged that Shri Dinesh Chandra was employed by the second party at its Udupi branch as sub-staff on temporary basis w.e.f. 8-9-2003 against a permanent vacancy paying wages of Rs. 100 per day and he actually worked for 302 days till 5-7-2004 (inclusive of intervening holidays, General Holidays, Festival holidays etc. and that on 6-7-2004 the Branch Manager, Udupi instructed him not to come for work any more without giving any notice or reasons for refusing employment and all his attempts to report for duty was not materialized as such it amounts to termination by way of retrenchment and the same is void ab initio, invalid and inoperative for violation of the mandatory provisions of the Industrial Dispute Act relating to retrenchment. It is further alleged first party being a trade union of workmen duly registered under the provisions of Trade Union Act 1926 representing the majority of the employees of the bank since Shri Dinesh Chandra approached it to get him justice considering the facts relating to him being of the view of termination was an act of unfair labour practice on the part of the second party/management filed a petition before the Assistant Labour Commissioner (Central) Mangalore seeking the intervention and mediation in the matter and in the conciliation proceedings the second party since contended that Shri Dinesh Chandra had worked as a casual Labour only for about 173 days as such he was not entitled to any relief and on verification though the Labour Commissioner found he having worked more than 240 days the management did not agree as such the conciliation ended in failure and it resulted in this reference by the Central Govt. It is further alleged that the second party

having taken service from Shri Dinesh Chandra from 8-9-2003 till 5-7-2004 continuously and abruptly refused work from 6-7-2004 without any disciplinary action or complying the provisions of Section 25F of the Industrial Dispute Act, the second party/management be directed to restore Shri Dinesh Chandra in his original post he held at the time of termination with full back wages, continuity of service and all other consequential benefits that he was entitled to but for his illegal termination.

3. In the Counter Statement filed for the second party through its Chief Manager, Bangalore region it is contended Shri Dinesh Chandra worked in its newly opened Udupi branch from 12-9-2003 to 10-4-2004 intermittently for a total duration of 178 days as a temporary sub-staff for cleaning, dusting computer hardware, bundling of vouchers and job of messenger on a daily wage of Rs. 100. It is further contended the allegations that the services of Shri Dinesh Chandra came to be terminated w.e.f. 6-7-2004 is false, misleading and that the burden of proving the same that he was a workman and worked for more than 240 days in a year being on the first party it is for him to establish that he was a workman and worked for more than 240 days in the preceding year. It is further contended that at the time of engagement itself said Shri Dinesh Chandra was made known that his work is of temporary nature and he would not be entitled for any benefits to which a permanent employee is entitled as the post of sub staff is to be filled in on permanent basis as per Government guidelines and there is no permanent vacancy to offer him. Thus it is contended that between 12-9-2003 to 10-4-2004 intermittently Shri Dinesh Chandra worked for 178 days on daily wage basis as such he is not entitle for any relief asked for.

4. After completion of the pleading when the parties were called upon to adduce evidence, on behalf of the second party/management while examining Shri K. Dinesh Shepoy claims to have worked as branch manager of Udupi from the date of its opening on 9-9-2003 till June 2005 as MW1 and no documents were got marked through him. Inter alia on behalf of the first party in the cross examination of MW1 while getting exhibited 47 vouchers produced by the second party being called for by the first party for the period 8-9-2003 to 10-7-2004 and a local delivery book as Ex.W1 series and W2 respectively and while filing the affidavit of Shri Dinesh Chandra and examining him on oath as WW1 got marked copy of the application purported to have been given by him for his appointment dated 5-8-2003 copy of his representation to AGM dated 27-8-2004 with request to continue his services with postal receipts and postal acknowledgment; copy of his representation to the Branch Manager dated 27-8-2004 with postal receipt; copy of factual report by ALC(C), Mangalore dated 18-12-2005 as Ex.W3 to W6 respectively. After his cross examination by the learned advocate appearing for the second party I have heard arguments

addressed by the learned advocates appearing for both the sides.

5. The learned advocate appearing for the first party while submitting that a temporary employee is one who worked in the vacancy of a permanent post and admittedly the first party's service being taken by the second party at its newly opened Udupi branch in an unfilled post being not in dispute and it is also admitted in the counter statement that his services has been availed as a temporary sub staff in the unfilled post only disputing the date of employment being not from 8-9-2003 till 5-7-2004 it is contended he worked from 13-9-2003 to 10-4-2004 but by getting produced the vouchers pertaining to the period 8-9-2003 till 10-7-2004 it has been established that he actually worked for a period of 243 days and as the intervening holidays and Sundays have to be taken into consideration for the purpose of counting the working days the total working days comes to 303 days in all and admittedly no compliance of mandatory provisions of Section 25 F being made before refusing him the work, it amounts to illegal retrenchment is void ab initio and his service has to be presumed as continued upto date as such he is entitle for restoration of his position with full back wages that he would have received in the absence of the impugned illegal retrenchment. In support of his argument he cited the following decisions:

1. 1986 Lab IC 98SC Workmen of American Express International Banking Corporation Vs. Management of American Express International Banking Corporation.
2. SCLJ 1984-93 Vol. 1 P 601 H.D. Singh Vs. Reserve Bank of India & others
3. 1986 LAB IC 101 SC Management of Standard Motor Products of India Ltd. Vs. A. Parthasarathi.
4. 1992 I LLJ 419 RAJ HC Chagga Lal Vs. Panchayat Samiti & Another.
5. 2001 III LLJ 14 (Supply) State of Gujarat and others Vs. Navinchandra L. Mandavia and another.
6. 2002 II LLJ 1000 Prathma Bank Vs. Presiding Officer CGIT cum Labour Court, Pandu Nagar, Kanpur.
7. 2001 I LLJ P 701 Vikramaditya Pande Vs. Industrial Tribunal Lucknow and another.
8. 2004 III LLJ 555 Krishna Bahadur Vs. Puma Theater and others.
9. 2010 II LLJ 277 Harjinder Singh Vs. Panjab State Warehousing Corporation.
10. 2010 III LLJ I SC Anoop Sharma Vs. Executive Engineer, Public Health Division No. 1, Panipat (Haryana).

11. 1986 ILLJP 470 Mukunda Vs. KSRTC.

6. Inter-alia the learned advocate appearing for the second party urged that no documents being produced to show that Shri Dinesh Chandra was member of first party union and first party union had no locus standi to espouse his cause and admittedly the process of selection being not followed in his appointment and his services were temporarily availed by the branch manager making payment through Sundry Expenses provided for the branch he cannot be a workman and moreover the vouchers produced at Ex.W1 series since suggest that he actually worked for 173 days only there was no need to comply the provisions of Section 25F of the Industrial Dispute Act as such he is not entitle for any relief. In support of his arguments he cited the following decisions:

1. (2007) 1 SCC 408-Indian Drugs & Pharmaceuticals Ltd. Vs. Workman Indian Drugs and Pharmaceuticals Ltd.
2. (1997) 4 SCC 391 Himanshu Kumar Vidyarthi & Others Vs. State of Bihar and Others.
3. (2007) 1 SCC 575 State of MP and others Vs. Lalit Kumar Verma.

After the argument of the learned counsel appearing for the second party the first party counsel to repel his arguments relied on the decision reported in 2011 III LLJ-1 (SC) in the case of Davinder Singh Vs. Municipal Counsel Sanaur Page 1.

7. As rightly argued on behalf of the first party the claim being not either for absorption or regularization of service of Shri Dinesh Chandra the citations referred to by the learned advocate appearing for the second party have no relevance to the case on hand. To all the contentions raised by the learned advocate appearing for the second

party there is an apt reply in the decision cited by the learned advocate appearing for the first party in his reply reported in 2011 III LLJ-I SC in the case of Davinder Singh Vs. Municipal Counsel, Sanaur. In the said case Devinder Singh was engaged by Municipal Council, Sanaur for doing clerical work for a period of about 2 years (from August 1994 to September 1996) and his service was terminated without compliance of Section 25F of the Industrial Dispute Act and when a dispute was raised the Labour court directed his reinstatement without back wages and then the said award when challenged before the Hon'ble High Court, the Hon'ble High Court set aside the labour Court award and when Shri Devinder Singh aggrieved by that order of the High Court approached the Hon'ble Supreme Court, the Hon'ble Supreme Court while holding mode of recruitment is not relevant to decide the status of a workman under section 2(s) of the I.D. Act, 1947 and once the workman demonstrates having worked for 240 days intermittently in the preceding year to termination his termination without complying the mandatory provisions of Section 25 F of the I.D. Act, amounts to illegal retrenchment and he is entitle for reinstatement and thus while setting aside the order of the Hon'ble High Court it restored the award passed by the Labour Court.

8. In the instant case admittedly there being no compliance of section 25 F of the I.D. Act the only point that requires to be considered is whether Shri Dinesh Chandra had worked for a period of 240 days entitling himself the benefit of Section 25 F of the I.D. Act. In this regard as called for by the first party the second party produced the vouchers of payment of daily wages made by Udupi branch for the period from September 2003 to July 2004 which have been marked as Ex.W1 series. As per the list of vouchers and the details/list of vouchers prepared by the second party itself it is as under:

List of vouchers of payment of daily wages made by Udupi branch for the period from September 2003 to July 2004.

S.No.	Date of Vouchers	Particulars	Amount	Days From	To	Mode of payment	
1	2	3	4	5	6	7	8
1.	13-09-2003	Wages to Dinesh	75	1	8-9-03	—	Cash
2.	20-09-2003	Wages to Dinesh	800	8	12-09-03	20-09-03	Cash
3.	27-09-2003	Wages to Dinesh	500	5	22-09-03	24-09-03	Cash
					26-09-03	27-09-03	Cash
4.	30-09-2003	Wages to Dinesh & Rohit	280	1			Cash
5.	7-10-2003	Wages to Dinesh	400		29-09-03	30-09-2003	Cash
					01-10-03 &	3-10-2003	Cash
6.	10-10-2003	Wages to Dinesh	600	6	6-10-03	11-10-2003	Cash
7.	18-10-2003	Wages to Dinesh	600	6	13-10-03	18-10-2003	Cash
8.	25-10-2003	Wages to Dinesh	600	6	20-10-03	25-10-2003	Cash

1	2	3	4	5	6	7	8
9.	3-11-2003	Wages to Dinesh	500	5	26-10-03	31-01-03	Cash
10.	8-11-2003	Wages to Dinesh	600	6	3-11-2003	8-11-03	Cash
11.	15-11-2003	Wages to Dinesh	600	6	10-11-03	15-11-03	Cash
12.	21-11-2003	Wages to Dinesh	600	6	17-11-03	22-11-03	Cash
13.	29-11-2003	Wages to Dinesh	500	5	24-11-03	29-11-2003	Cash
14.	6-12-2003	Wages to Dinesh	600	6	1-12-2003	6-12-2003	Cash
15.	13-12-2003	Wages to Dinesh	600	6	8-12-2003	13-12-03	Cash
16.	20-12-2003	Wages to Dinesh	600	6	14-12-2003	19-12-2003	Cash
17.	27-12-2003	Amount paid to Dinesh	500		No details		Cash
18.	3-1-2004	Amount paid to Dinesh	600		No details		Cash
19.	10-01-2004	Amount paid to Dinesh	600	6	No details		Cash
20.	17-01-2004	Amount paid to Dinesh	400	4	No details		Cash
21.	24-01-2004	Amount paid to Dinesh	600		No details		Cash
22.	31-01-2004	Amount paid to Dinesh	500	5	No details		Cash
23.	7-02-2004	Amount paid to Dinesh	500	5	No details		Cash
24.	14-02-2004	Amount paid to Dinesh	600	6	No details		Cash
25.	21-02-2004	Amount paid to Dinesh	500	5	No details		Cash
26.	28-02-2004	Amount paid to Dinesh	600		No details		Cash
27.	6-03-2004	Amount paid to Dinesh	500	5	No details		Cash
28.	13-03-2004	Amount paid to Dinesh	600		No details		Cash
29.	20-03-2004	Amount paid to Dinesh	600	6	No details		Cash
30.	27-03-2004	Amount paid to Dinesh	600		No details		Cash
31.	31-03-2004	Amount paid to Dinesh	300		No details		Cash
32.	03-04-2004	Amount paid to Dinesh	300	3	No details		Cash
33.	10-04-2004	Amount paid to Dinesh	500		No details		Cash
34.	17-04-2004	Amount paid to Mahesh	700		No details		Cash
35.	24-04-2004	Amount paid to Mahesh	840		No details		Cash
36.	15-05-2004	Amount paid to Mahesh	560		No details		Cash
37.	8-05-2004	Amount paid to Mahesh	840		No details		Cash
38.	15-05-2004	Amount paid to Mahesh	840		No details		Cash
39.	22-05-2004	Amount paid to Mahesh	840		No details		Cash
40.	29-05-2004	Amount paid to Mahesh	840		No details		Cash
41.	05-06-2004	Amount paid to Mahesh	840		No details		Cash
42.	12-06-2004	Amount paid to Mahesh	840		No details		Cash
43.	19-06-2004	Amount paid to Mahesh	840		No details		Cash
44.	26-06-2004	Amount paid to Mahesh	840		No details		Cash
45.	3-07-2004	Amount paid to Mahesh	840		No details		Cash
46.	6-07-2004	Amount paid to Mahesh	150		No details		Cash
47.	10-07-2004	Amount paid to Mahesh	240		No details		Cash

9. First voucher at Sl. No. 1 dated 13-09-2003 makes it clear that it is not from 13-09-2003 service of Dinesh Chandra was availed but it is from 8-09-2003 as contended by him since the payment made against this voucher dated 13-09-2003 is for 8-09-2003. Vouchers produced at Sl. No. 1 to 33 commencing from 8-09-2003 are towards payment of wages made to Shri Dinesh Chandra for a period of 173 days. As far as vouchers at Sr. No. 34 to 47 it is claimed that it is one Mahesh who actually served at Udupi branch, as such, those days cannot be to the credit of Shri Dinesh Chandra. The details of vouchers at Sr. No. 34 to 47 being for a period of 72 days if the first party is able to demonstrate that these vouchers are infact towards payment for the actual work done by him manipulating the same as towards payment to Shri Mahesh he succeeds in establishing that the total days worked by him between 8-09-2003 to 10-07-2004 being 243 days with intermittent Sundays and holidays inclusive of which it would be 303 days. As far as these disputed vouchers are concerned that are produced at Sr. No. 34 to 47 all bears the signature of Shri Mahesh as well as Shri Dinesh Chandra on the back. If at all for these periods it was Shri Mahesh who worked and not Dinesh Chandra I fail to understand why the signatures of Dinesh Chandra also appear on the back of these vouchers. MW1 who claims that he was the branch Manager of the Udupi branch since from its opening on 9-09-2003 till June 2005, failed to explain why the signature of Shri Dinesh Chandra are also appearing on the back of these disputed vouchers. In his cross examination while admitting that vouchers at Sr. No. 34 to 47 do bearing the signatures of Shri Mahesh and Dinesh Chandra on the reverse portion he tried to make to believe voluntarily saying that the payment is made only to Shri Mahesh, but, he failed to explain why the signatures of Dinesh Chandra are appearing on these vouchers if it was Shri Mahesh who actually worked and payments were made to him under these disputed vouchers. Therefore, the contention of the second party that Shri Dinesh Chandra worked only upto 10-04-2004 holds no water since writing on the vouchers are actually not made by the workmen and only their signatures are taken on the back of the vouchers. Since the signatures of Shri Dinesh Chandra as well as Shri Mahesh appear on the reverse of the disputed vouchers at Sl. No. 34 to 47 it do suggest that the second party manipulated the vouchers from 17-4-2004 to 10-07-2004 as one regarding payment made to Shri Mahesh to deprive the first party benefit of having worked for a period of 240 days in the preceding year to his termination. On facts the vouchers got produced from the second party marked as Ex. W1 series do demonstrate that between 8-09-2003 to 10-07-2004 Shri Dinesh Chandra having actually worked for 243 days and on giving benefit of Section 25(b)2 his working days comes to 303 days. In paras 9 to 23 of the judgment of the Apex Court in the case of Devinder Singh Vs. Municipal Council reported in 2011 III LLJ 1(SC) their Lordship while considering the effect of

Section 2(oo), 2(s) and 25 F of the Act held that the provision contained in Section 25 F (a) (b) are being mandatory, termination of the services of workman amounts to retrenchment within the meaning of section 2(oo) without giving one month notice, benefits or pay in lieu thereof and retrenchment compensation is null and void/illegal and inoperative. Therefore, only because the service of Shri Dinesh Chandra was not taken on regular appointment process he cannot be treated as workman is without any substance since he has demonstrated having actually worked for 243 days excluding intervening Sundays and holidays including which the period comes to 303 days, refusing him the job do amount to illegal retrenchment and he is entitle for restoration of his position as it was on 10-07-2004. The claim of the first party that since from the date of refusal of work by the second party he is not gainfully employed is either controverted or demonstrated that he is gainfully employed by leading any evidence, however, having regard to the nature of the job given to him as a temporary sub staff on daily wage basis Shri Dinesh Chandra could not have survived for all these days without doing any job. However, that in itself that he is somehow survived cannot be taken as a gainful employment, having regard to the nature of the service provided to him by the management and refusing him the job manipulating the vouchers to deprive him the benefit of 240 days. I am of the opinion that ends of justice will be met by directing the management to restore him to the position as it was on 10-07-2014 reinstating him into the same service and making payment of 40 per cent of wages payable to the daily wager from 11-07-2004 till reinstating him in service for all the actual working days of the bank.

10. In the result I pass the following Award:

AWARD

The reference is allowed holding that the action of the management of Bank of Maharashtra in terminating the services of Shri Dinesh Chandra from 10-07-2004 is not justified and that it has committed unfair labour practice as per Clause X Schedule V of the Industrial Dispute Act, 1947 and is liable to reinstate him with 40 per cent of the back wages payable to daily wager from 11-07-2004 till actual reinstatement for all the working days and also give the benefit of continuity of service. The respondent if failed to comply with the award within 30 days from the date of notification, arrears of wages payable to him shall carry interest @ Rs.10 per annum.

(Dictated to PA transcribed by her corrected and signed by me on 02-04-2012)

S.N. NAVALGUND, Presiding Officer

नई दिल्ली, 26 अप्रैल, 2012

का.आ. 1715.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ

इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीपीआईटी/एनजीपी/ 28/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 12-4-2012 को प्राप्त हुआ था।

[सं. एल-12012/108/2002-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 26th April, 2012

S.O. 1715.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/ 28/2003) of the Central Government Industrial Tribunal/Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 12-4-2012.

[No. L-12012/108/2002-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BERORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/28/2003 Date: 29-3-2012

Party No. 1 : The District Manager, Lead District Manager's Office, Bank of India, Near Janata College, Chandrapur (M.S.)

Versus

Party No. 2 : Shri Shyam Tulsiram Deogirkar Behind Hanuman Nagar Bus Stand, Chandrapur (M.S.)

AWARD

(Dated : 29th March, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the Industrial dispute between the employers, in relation to the management of Bank of India and their workman Shri Shyam Tulsiram Deogirkar, for adjudication, as per letter No. L-12012/108/2002-IR(B-II) dated 10-12-2002, with the following schedule :—

"Whether the action of the management in relation to Lead District Manager's Office, Bank of India, Chandrapur in terminating the services of Shri Shyam Tulsiram Deogirkar, by verbal order on 13-8-2001 is legal & justified? If not, to what relief to which the workman entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman,

Shri Shyam Tulsiram Deogirkar, ("the workman" in short), filed the statement of claim and the management of Bank of India ("Party No. 1" in short) filed its written statement.

The case of the workman is that he was in the Service of the Party No. 1 from 1994 and was posted in the Chandrapur Branch of the Bank as a Sweeper and he was doing the work of a peon besides working as a Sweeper and he requested for regularization of his services to the Bank authority and as such, the Chief Manager, of the Bank directed the Branch Manager to give the information regarding his engagement in detail, vide communication dated 18-7-2001, but the party no. 1 without giving any information to the Chief Manager, all of a sudden terminated his services orally w.e.f. 13-8-2001 and he had rendered more than 240 days of continuous service prior to his termination and before termination of his services, neither any notice nor any notice pay or retrenchment compensation was paid to him and the party no. 1 also did not maintain any seniority list and as his termination from services was illegal, he approached the Asstt. Labour Commissioner, Chandrapur and due to failure of the conciliation, a failure was submitted to the Government and the Government referred the dispute for adjudication to this Tribunal. The workman has prayed for his reinstatement in service with continuity and full back wages.

3. The party no. 1 in its written statement has pleaded inter-alia that the workman was never in its service at Chandrapur Branch at any point of time, much less from 1994 in the post of Sweeper and the workman had never worked either as a sweeper or a peon in its branch in Chandrapur and there was no employer and employee relationship between it and the workman and as such, there was no question of termination of his services on 13-8-2001 and the workman, therefore is not entitled for any relief.

4. It is necessary to mention here that even though the workman had filed his evidence on affidavit in support of his claim, he did not appear for cross-examination, even though, he had been given number of opportunities for the same. As the workman did not appear for his cross-examination, be order dated 7-4-2011, his evidence on affidavit was expunged and the evidence was closed from his side. It is also necessary to mention here that the party no. 1 did not adduce any oral evidence in support of his case.

5. It is well settled that when a workman raises a dispute challenging the validity of the termination of the service, it is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or to produce evidence, the dispute referred by the Government cannot be answered in his favour and he could not be entitled to any relief.

In this case also, the workman has failed to produce any evidence in support of his claim. Therefore, the workman is not entitled for any relief and the reference cannot be answered in his favour. Hence, it is ordered:—

ORDER

The action of the management in relation to Lead District Manager's Office, Bank of India, Chandrapur in terminating the services of Shri Shyam Tulsiram Deogirkar, by verbal order on 13-8-2001 is legal & justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 26 अप्रैल, 2012

का.आ. 1716.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 87/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 12-4-2012 को प्राप्त हुआ था।

[सं. एल-12011/27/2011-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 26th April, 2012

S.O. 1716.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87/2011) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 12-4-2012.

[No. L-12011/27/2011-IR(B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 30th March, 2012

Present : A. N. Janardanan, Presiding Officer
Industrial Dispute No. 87/2011

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Canara Bank and their Workmen)

BETWEEN

The Secretary : 1st Party/Petitioner Union
Canara Bank Staff Union
C/o Canara Bank,
Oppankara Street
Coimbatore-641001

Vs.

The Deputy General : 2nd Party/Respondent
Manager
Canara Bank, Circle Office
166, T.V. Swamy Road (West) :
R.S. Puram Coimbatore-641002

APPEARANCE:

For the 1st Party/Petitioner : M/s. K. Elango, Advocate
For the 2nd Party/Management : M/s. Sree & Associates,
Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/27/2011-IR(B-II) dated 19/20-9-2011 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the management of Canara Bank in imposing the punishment of “Censure” on Sri M. Manickasundaram is legal and justified?”
What relief the concerned workman is entitled to?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as D.87/2011 and issued notices to both sides. Both sides entered appearance through their respective counsel and filed their Claim and Counter Statements as the case may be. Thereafter when the matter stood posted from time to time for further steps and lately on 27-3-2012 for enquiry, petitioner was absent nor represented.

3. Points for consideration are :

- Whether punishment of censure on Sri M. Manickasundaram is legal and justified?
- To what relief the concerned workman is entitled?

Points (i) & (ii)

4. The petitioner has not come forth to let in any evidence in support of his case for answering the reference. Needless to say it is upon the petitioner to substantiate his case that the punishment of censure inflicted on him by the Management is not legal and justified if it is actually so. When he wishes the Court to be satisfied and made believe that it is for him to discharge that burden which has not been done. The inevitable conclusion is that the punishment of censure imposed on him is only legal and justified and he is not entitled to any order to the contra.

5. The reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 30th March, 2012)

A.N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner : None
For the 2nd Party/Management : None

Documents Marked :

On the Petitioner's side

Ex. No.	Date	Description
		N/A

On the Management's side

Ex. No.	Date	Description
		N/A

नई दिल्ली, 26 अप्रैल, 2012

का.आ. 1717.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार परिचय रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निम्नित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 82/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-4-2012 को प्राप्त हुआ था।

[सं. एल-41012/14/2002-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 26th April, 2012

S.O. 1717.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. 82/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Railway, Churchgate and their workmen, received by the Central Government on 26-4-2012.

[No. L-41012/14/2002-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/82/02

Presiding Officer: Shri Mohd. Shakir Hasan

Shri Rambharose S/o Bihari,
R/o Ward No.10, Phokatpura,
P. O. Khirkiya,
Distt. Harda (MP)

...Workman

Versus

The AEN,
Central Railway,
Khandwa (MP)

...Management

AWARD

Passed on this 9th day of April, 2012

The Government of India, Ministry of Labour vide its Notification No. L-41 012/14/2002-IR(B-I) dated 30-5-02 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of DRM, Central Railway by not considering the case of Shri Rambharose S/o Shri Bihari for regularization of service is justified? If not, what relief the workman is entitled?”

2. The case of the workman in short is that the workman was appointed as Gangman in the year 1980 under PWI North, Central Railway. He was granted service card bearing No. 329836 in the year 1980 and in the service record, his period of duty was recorded till 18-3-90. He was

thereafter made permanent Gangman in the year 1983. The Screening Committee had called him for interview against permanent post of the Gangman but the then Officer did not send him before the screening committee. However the workman is said to have worked continuously for ten years. He sent several representations to the management and also to higher authority but no reply was given till 1994. During his working period, he became ill and was treated at Maharaj Yashwantrao Hospital, Indore. When he became fit, he went to join his service with medical certificate dated 22-7-94 but he was not taken into service by the management. It is submitted that the reference be answered in his favour.

3. The management appeared and filed Written statement to contest the reference. The case of the management, inter alia, is that the workman was engaged as casual labour in the year 1980. Thereafter he was engaged as monthly rated casual labour (in short MRCL) w.e.f. 20-3-1984. It is stated that in the Railways there is no such provision of automatic empanelment. The workman had never applied for screening and therefore he was not in the panel. However the office has asked to the Divisional Railway Manager (Personnel Branch), Central Railway, Bhusawal vide letter dated 16-8-2001 about his regular absorption. D.R.M(W) Bhusawal was informed that as per notification dated 21-5-1999 the workman had not applied for the post of Gangman and as such the question of regularizing his services does not arise. It is stated that the workman had left the job on his own accord w.e.f. 18-12-1989 and his service was not terminated by the management. It is stated that on receipt of medical certificate dated 22-7-1994, the same was verified from the said hospital but the same was found false. It is submitted that reference be dismissed and the workman is not entitled to any relief.

4. On the basis of the pleadings of the parties, the following issues are framed for adjudication—

I. Whether the action of the management by not considering the case of Shri Rambharose for regularization in service is justified?

II. To what relief, the workman is entitled?

5. Issue No. I

The workman has filed evidence of three witnesses including his evidence. The management has not turned up to cross-examination to these witnesses. The right of the management to cross-examine to these witnesses has been closed. The workman Shri Rambharose has supported his case that he was appointed in the year 1983 in the Railway and Service Card No. 329836 was issued. He became ill on 31-12-89 and was treated at Maharaj Yashwant Hospital, Indore. After recovery from illness, he again worked but on 24-5-1992 he again became ill and was treated till 1994. After discharge from the hospital, he went to join but he was not allowed to join. His evidence clearly shows that the workman is not in service. This is not a reference

to decide as to whether the termination of the workman is justified or not. The question is as to whether the workman is entitled to be regularized in the service of the management. Since he is admittedly not in the services of the management, the question to regularize him in the service of the management does not arise.

6. The workman has also filed the evidence of Shri Dhannalal and Shri Govind Prasad in the case. The management has declined to cross-examine these witnesses. Their evidence is in corroboration with the evidence of the workman. Their evidence also shows that the workman is no more in service and as such the question of regularization in the service does not arise.

7. The workman has filed the photocopies of the documents. Paper No. 3/7 is the service card. This service card shows that the workman was casual labour. This shows that he was not appointed as Gangman. It also shows that subsequently he became MRCL. The service card supports the case of the management that the workman was engaged as casual labour and thereafter he was engaged as MRCL. The workman has not filed any document to show that he applied for empanelment and also for the post of Gangman. Thus the evidence as discussed above shows that the action of the management is justified in not regularizing him in the service of the management as his appointment is not in accordance with recruitment rules. This issue is decided against the workman and in favour of the management.

8. Issue No. II

It is evident from the evidence on the record that the workman is not entitled to any relief. The reference is accordingly answered.

9. In the result, the award is passed without any order to costs.

10. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 26 अप्रैल, 2012

का.अ. 1718.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय रिज़र्व बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट (संदर्भ संख्या 42/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-4-2012 को प्राप्त हुआ था।

[सं. एल-12012/17/2005-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 26th April, 2012

S.O. 1718.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 42/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of the Reserve Bank of India and their workmen, received by the Central Government on 26-4-2012.

[No. L-12012/17/2005-IR (B-1)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 16th April, 2012

PRESENT

SHRI S. N. NAVAL GUND, Presiding Officer

C.R. No. 42/2005

I PARTY

Shri Richard Pinto,
No. 14, Mangala Layout,
15th Cross Road Cross,
Aravindanagar Kammanahilli,
Bangalore-560084

II PARTY

The General Manager (A),
The Reserve Bank of India,
Nrupathunga Road,
Bangalore

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) has referred this dispute *vide* order No. L-12012/17/2005-IR(B-1) dated 19-9-2005 for adjudication on the following Schedule:

SCHEDULE

"Whether the action of the management of Reserve Bank of India is justified in dismissing Shri Richard Pinto Coin-Note Examiner-I from services with effect from 25-8-2003? If not, to what relief the workman is entitled to and from which date?"

2. It is borne out from the records that the first party workman who was working as Group Supervisor of Group-I in the Note Examination of Section 'B' of Reserve Bank of India, Bangalore branch along with Shri M. Nagraj, Staff Officer; B. Jairaj, Mazdoor; S. Jayarajan, Mazdoor; M. Puttanna, Mazdoor; C.R. Gururaja Rao, Coin/Note Examiner; Narayanaswamy, Coin/Note, Examiner; B. Gopalkrishna, Coin/Note Examiner, K.S. Radhakrishnan, Coin/Note Examiner; T. Muthaiyan, Coin/Note Examiner; S. Ramalingam, Mazdoor; R. Kuchelan, Punching

Supervisor; V. Thangaraj, Mazdoor; M. Devadas, Seal Keeper; Ramachandra, Sale Staff Officer; G. Hari Ram, Staff Officer and Smt. Ramalakshmi Naidu, Coin/Note Examiner served with charge sheet as under:—

Charge Sheet

"You are advised that in the circumstances mentioned in Paragraph 2 below, the charges as set out in paragraph 3 have been framed against you.

2. (i) On 5th March, 1979 you were working as Group Supervisor of Group I in the Note Examination Section 'B' of this office. A packet of non-issuable notes of the denomination of Rs. 100 bearing seal BG-OE was examined and prepared by Smt. M.R. Vanaja, Coin-Note Examiner Gr. II who was working in your Group under your supervision and control. It was found that in the said packet, 15 pieces of non-defaced notes had been substituted by already defaced notes of the same denomination punched prior to 5th March, 1979.

- (ii) As the said Coin Note examiner Gr. II was working in your immediate presence, had you exercised due care and diligence in the discharge of your duties, substitution of non-defaced notes by already defaced notes as stated above would not have taken place resulting in a loss of Rs. 1500 to the Bank.

You are therefore, charged with having discharged your duties in a grossly negligent and inefficient manner and thereby having acted in a manner detrimental to the interests of the Bank causing a loss of Rs. 1500 to the bank.

4. Accordingly, this charge sheet is issued to you in pursuance of Regulation 47 of the Reserve Bank of India (Staff) Regulations, 1948.
5. You are hereby called upon to answer the above charges in writing or in person in which case your defence will be taken down in writing and read out to you. Any defence you may wish to proffer, including the list of witnesses you may wish to produce, should be submitted along with the reply to the above charges to the under signed on or before 20th July 1985."

3. Being not satisfied with his reply dated 20-7-1985 the second party while appointing Shri V. V. Nayak, Officer in Grade B as Enquiry Officer and Shri Mohammed Shafi Ahmed, Officer in Grade 'B' as Presenting Officer initiated the Domestic Enquiry and the Enquiry officer after duly holding the enquiry by his report dated 23-7-2003 held the

charges being proved against all. The Disciplinary Authority after causing second show cause notice and giving a personal hearing passed the impugned order of dismissal dated 25-8-2003 and the Appellate Authority as well after giving the personal hearing to the first party confirmed the order of the Disciplinary Authority. Being aggrieved by the said punishment order imposed by the Disciplinary Authority and confirmed by the Appellate Authority the dispute being raised by the first party before the Assistant Labour Commissioner (Central), Bangalore and the said conciliation failed the Central Government made this reference for adjudication.

4. Having regard to the contention raised by the first party with regard to the fairness or otherwise of the Domestic Enquiry while raising a preliminary issue as to "Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper"? my learned Predecessor after receiving the evidence adduced by both sides on the said issue answered the same in the 'affirmative' i.e. the enquiry being fair and proper the matter came to be posted for hearing arguments on merits.

5. After finding of this tribunal on the Domestic Enquiry issue the first party and his counsel never turned up and ultimately the matter came to be posted for award after hearing the representative of the second party.

6. Since the Domestic Enquiry has been held as fair and proper it was for the first party to demonstrate that the enquiry finding was perverse as such the Disciplinary Authority could not have placed reliance on such a finding to impose the highest punishment of dismissal and at least the Appellate Authority would have intervened and set aside the punishment order or at least reduce the quantum of punishment. But as already adverted to by me above, the first party and his counsel since never turned up after the finding of this tribunal on the Domestic Enquiry I feel that they left abandoned the reference being satisfied that they have no hope of success. It is also borne out from the records, besides the Domestic Enquiry initiated against the first party and others in relation to this very charge parallel criminal proceedings was also initiated and all the officials have been convicted by the criminal court where in this official was accused No. 5. Apart from that in respect of this very charge in the dispute raised by other five officials this tribunal while confirming the finding of the enquiry officer had reduced punishment of dismissal to compulsory retirement and that order when challenged by the second party before the Hon'ble High Court of Karnataka in Writ Petition No. 556/94 same came to be allowed reversing the modification of punishment by this tribunal confirmed order of dismissal passed by the Disciplinary Authority and even writ appeal preferred against that order in the writ petition came to be dismissed. Having regard to this development the first party in this case appears to have lost hope of his success and actually abandoned the reference. Under the circumstances I have no reason to interfere either in the

finding of the enquiry officer as perverse or order of punishment imposed by the Disciplinary Authority confirmed by the Appellate Authority.

7. In the result I arrived at the conclusion of rejecting the reference affirming the order of dismissal passed by the Disciplinary Authority. Accordingly I pass the following award:

AWARD

The reference is rejected holding that action of the management of Reserve Bank of India is justified in dismissing Shri Richard Pinto Coin Note Examiner-1 from service w.e.f. 25-8-2003 i.e. in the finding of the enquiry officer the charge being proved and that the first party is not entitle for any relief.

(Dictated to PA transcribed by her corrected and signed by me on 16-4-2012).

S. N. NAVALGUND, Presiding Officer
नई दिल्ली, 27 अप्रैल, 2012

का.आ. 1719.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गोदावरीखानी (आईटी/आईडी/13/2008) के पंचाट (संदर्भ संख्या 13/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 27-4-2012 को प्राप्त हुआ था।

[सं. एल-22013/1/2012-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी
New Delhi, the 27th April, 2012

S.O. 1719.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award of the Indus. Tribunal-cum-Labour Court, Godavarikhani (IT/ID/13/2008) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 27-4-2012.

[No. L-22013/1/2012-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer
ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, GODAVARIKHANI, DIST.
KARIMNAGAR (AP)

PRESENT :—Sri M. Syamala Rao. BA., BL.,
Chairman-cum-Presiding Officer
Friday, the 13th Day of April, 2012
Industrial Dispute No. 13 of 2008.

Between:—

Sadiram Rajendra Prasad,
Ex-Badli Filler, E.C. No. 2913089,
S/o. Prabhakar, Aged about 26 years,
H.No.11-9-634/75, Near Shirke Bus Stop,
8 Incline Colony, Mandal Ramagundam,
Dist. Karimnagar-505 209 (AP)

...Petitioner

And

1. The Colliery Manager,
I K-1A Incline, SCCo. Ltd.,
PO. Sree Rampur Division,
Dist. Adilabad (AP)

2. The Chief General Manager,
Sreerampur Area,
P.O. Sree Rampur Division,
Dist. Adilabad (AP)

3. The Chairman & Managing Director,
Singareni Collieries Co. Ltd.,
PO. Kothagudem, Dist. Khammam.

...Respondents

This Industrial Dispute petition U/Sec. 2-A (2) of I.D. Act, coming on before me for final hearing on 9-4-2012, upon perusing all the documents on record and upon hearing the arguments of Sri K. Sudhakar Reddy, Advocate, for the petitioner and Sri D. Krishna Murthy, Advocate, for the respondents, having stood over for consideration till this date, the court passed the following:—

AWARD

1. This is an Industrial Dispute petition filed by the petitioner U/Sec. 2-A(2) of I.D. Act, 1947 to set aside the office order dt.13-09-2007 passed by the 2nd respondent dismissing the petitioner from service w.e.f. 17-9-2007 and direct the respondent's company to reinstate the petitioner into service, with continuity of service, all other consequential attendant benefits and full back wages.

2. The brief averments of the petition are that he was appointed as Badli Filler by the respondents company in the month of October, 2003 under dependent employment scheme, in place of his deceased father Prabhakar and ever since he was discharging his duties to the utmost satisfaction of the company authorities. He belongs to B.C., community and hails from a very poor family. He successfully completed the probation period and confirmed as Badli Filler. From the year 2003, he attended to his duties promptly and regularly and put in more than the required 100 physical musters every year from 2004 and 2005. During the year 2006, his health was not good and took treatment; even then, he could put in minimum musters but due to that his health condition badly deteriorated and was suffered from serious ill health. He filed the medical prescriptions issued by the SCCL hospital (6) Nos., pertaining to his treatment under the list of documents. At the same time, the petitioner's mother was admitted in the company hospital due to over bleeding, she underwent treatment in the company hospital. But as she could not recover, she was joined in a private hospital by name "Sri Venkatasai Nursing Home", Peddapalli where she was operated and the relevant documents i.e., outdoor ticket slips (12) Nos., in respect of medical treatment are filed under the list of documents. Further, the wife of the petitioner conceived after 4 years of marriage and the

gynecologist advised to take bed rest and she was admitted in the hospital. The medical treatment documents/O.P. slips of SCCL hospital (3) Nos. and private hospital (3) Nos., are filed under the list of documents Being elder person in the family, whole responsibility has been shifted on the shoulders of the petitioner. The 1st respondent without considering the true facts issued charge sheet under the company's standing order No.25.25 dt.8-5-2007 alleging that:—"For your habitual absence from duty without sufficient cause during the year 2006".

3. And that there is reasonable and sufficient cause for the alleged absence of the petitioner during the said year 2006 for genuine ill health of mother, wife and of the petitioner himself. It is neither willful nor deliberate. But on 6-6-2007, the respondents conducted a domestic enquiry farcically. He participated in the domestic enquiry and deposed his genuine health problems, of his mother and of his wife, during the year 2006. The petitioner could not file the original medical certificates before the enquiry officer due to his ill health, ill health of his mother and wife; the said original documents are now filed before this court as additional evidence.

4. And that the respondents failed to give any family counseling and observation period to the petitioner after the domestic enquiry. The 2nd respondent without considering the genuine ill health of the petitioner and his mother and wife, dismissed him from service illegally w.e.f., 17-9-2007 by office order No.SRP/PER/13.008/4454, dt. 13-9-2007.

5. And that the domestic enquiry was not conducted fairly and properly, Further the findings of the enquiry officer are highly perverse and bias, Fair opportunity was not given to the petitioner to defend himself. The enquiry officer did not properly appreciate the documentary and oral evidence adduced by the petitioner, The entire proceedings were recorded in English language and not known to the petitioner who is an illiterate, His signatures were obtained under the threat of insubordination. Hence, the court may be pleased to hold the domestic enquiry as invalid and vitiated,

6. And that the respondent No.1 issued show cause notice dt.18-6-2007, The said notice is herewith filed in the list of documents for kind perusal of this court. The respondent No.2 passed the dismissal order straight away and prior show cause notice proposing the said capital punishment of dismissal from service was not issued to the petitioner by the respondent company which is against the mandatory/statutory provisions of law and contrary to the principles of natural justice. Further the said extremely harsh punishment of dismissal from service is highly excessive and shockingly disproportionate the gravity of alleged charge levelled against the petitioner, it amounts to economic death of the petitioner. It is not at all warranted and is liable to be quashed by this court.

7. And that ever since his unjust dismissal from service w.e.f. 17-9-2007, he could not secure any other alternative job. He remained unemployed and incurred huge debts for medical and domestic expenses of his family. He is facing lot of hardship and misery to eak out livelihood for all his family members. He was compelled to take debts and loans to meet the domestic expenses which are essential for his family existence and livelihood. He belongs to SC community and got no source of livelihood. Therefore prays as above.

8. The respondent No. 2 filed his counter denying all the averments made in the petition and the respondent Nos.1 & 3 adopted his counter by filing a memo.

The brief facts of the counter filed by the 2nd respondent are that it is a government company incorporated under the provision of Company's Act, 1956 for carrying out the business of winning and selling the coal and that since the coal mining industry is a central subject. The appropriate Government for this respondent/management is Central Government. The respondent submits that as per Sec.7(A)(1) of I.D. Act, the appropriate Government may by notification in the official gazette constitute one or more Industrial Tribunals for the adjudication of Industrial Disputes relating to any matter whether specified in the 2nd or 3rd schedule and for performing such other functions as may be assigned to them under this Act. The Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad from 29-12-2000 for adjudication of industrial disputes and the petitioner ought to have approached the said Tribunal for the redressal of grievance if any. But the petitioner conveniently avoided to file his petition before the Tribunal established by the Central Government for the reasons best known to him and the petition is not maintainable under law and the same may be dismissed on this ground alone.

9. And that the maintainability of the dispute raised by the petitioner before this court may be decided as preliminary issue before proceeding with the trial.

10. The petitioner failed to exhaust a conciliation procedure as laid down in the I.D., Act and filed the present petition before this Tribunal U.Sec 2(A)(2) of I.D. Act, 1947 as amended by A. P. Amendment Act, 1987 (Act No. 32 of 1987). It is submitted that the appropriate Government for coal mining industry is the Central Government, the State Government Act is not applicable to the respondents company and the petition filed by the petitioner is not maintainable and is liable to be dismissed in limini.

11. And that the petitioner was appointed in the respondent company on 20-10-2003 as Badli Filler as dependent of his father. The petitioner being an underground employee was expected, to put in minimum of 190 musters in a calendar year. But the following attendance particulars indicate the fact that the petitioner

was not regular to his duties and in no year, he had put in 190 musters during the period from 2003-06:—

Year	No. of musters
2003	034
2004	151
2005	151
2006	82

During the period from January, 2006 to December, 2006, the petitioner has put in only 82 musters. As the above act amounted to misconduct under clause 25.25, he was issued charge sheet dt.8-5-2007. The relevant clause of standing order reads as under:—

“25.25 - Habitual late attendance or habitual absence from duty without sufficient cause”.

12. The petitioner received the charge sheet. The respondents' company issued enquiry notice dt. 25-5-2007 advising the petitioner to attend enquiry on 6-6-2007 to defend his case. The petitioner submitted his explanation dt.6-6-2007 and attended enquiry. During the enquiry on cross-examination, the petitioner accepted that he remained absent on the dates mentioned in the charge sheet and pleaded guilty of the charges levelled against him.

13. And that the petitioner along with his brother-in-law attended the counseling given by the respondents company on 6-6-2007 and assured the management that he would attend to his duties regularly. The petitioner worked for 18 days during the observation period. Hence, the petitioner was dismissed from the services of the company vide dismissal order dt., 13-9-2007 w.e.f., 17-9-2007. The respondents' company issued show cause notice dt.18-6-2007 along with copies of enquiry proceedings and enquiry report to the petitioner, giving him the opportunity to make his representation, if any, against the findings of the enquiry within 7 days but he failed to submit his reply.

14. And that the respondents company employs more than 70,000 persons which includes workmen, Executives and Supervisors. The production results will be depending upon the overall attendance and performance of each and every individual. They are inter linked and insufferable. In this regard if anyone remains absent without prior leave or without any justified cause, the work to be performed gets affected. Such unauthorised absence creates suddenly void, which is very difficult to fill up and there will be no proper planning and already planned schedule gets suddenly disturbed without prior notice i.e., reason why the respondents company is compelled to take sever action against the unauthorised absentees. The petitioner is one such un-authorised absentee having only 82 days attendance in the year 2006, the respondent company was constrained to dismiss the petitioner vide order dt. 13-9-2007 w.e.f. 17-9-2007. The allegations which are not specifically admitted are hereby denied. Therefore prays

to dismiss the petition with costs.

15. The petitioner's counsel filed a memo U/Sec.11-A of I.D. Act, on 5-3-2012 after giving notice to other side, which was recorded by this court. In view of the said memo U/Sec.11-A of I.D. Act, no preliminary issues are framed and settled.

16. During the enquiry, no witnesses are examined on either side, but Ex.W-1 to Ex.W-10 are marked on behalf of the petitioner and Ex.M-1 to Ex.M-8 are marked on behalf of the respondents, by consent.

17. Heard both sides. Perused the material papers on record.

18. Now the points that arise for consideration are:—

(1) Whether the present petition is maintainable before this Tribunal?

(2) Whether the charge framed against the petitioner is proved?

(3) Whether the punishment of dismissal from service imposed by the respondents is highly excessive, shockingly disproportionate to the gravity of the charge and not at all warranted; and if so, whether it is liable to be set aside?

(4) To what relief the petitioner is entitled?

19. POINT NO. 1:—

It is the case of the respondents that the respondents company incorporated under the provisions of Company's Act 1956 for carrying out the business and selling the coal and since the coal mining industry is a Central subject, the appropriate Government for this respondents/management is Central Government and that as per Sec.7 A(1) of I.D., Act, the appropriate Government by may its notification the official gazette constitute one or more industrial tribunals for adjudication of industrial disputes relating to any matter whether specified in the 2nd or 3rd schedule and for performing such other functions as may be assigned to them under this Act. The respondents further submitted in their counter the Central Government established an Industrial Tribunal-cum-Labour Court at Hyderabad on 29-12-2000 for adjudication of Industrial Disputes and the petitioner ought to have approached the said tribunal for redressal of grievances if any. But the petitioner conveniently avoided to file his petition before the Tribunal established by the Central Government for the reasons best known to him and the petition is not maintainable under law and the same may be dismissed on the ground and this issue may be decided as preliminary issue before proceeding with the trial.

“Appropriate Government is described U/Sec.2-A of the I. D. Act, 1947”. According to Sec.2-A(1) of the above Act, the Appropriate Government, by notification in the official gazette constitutes one or more Industrial Tribunals for adjudication of Industrial Disputes relating to any matter whether specified in 2nd or 3rd schedule. So, according to the above 2 provisions of law, this Tribunal

is established. Admittedly the petition filed by the petitioner is covered by an Industrial Dispute.

20. In a case reported in 1998(5) ALD-16 (D.B) in a writ petition between U.Chinnappa Vrs., Cotton Corporation of India and others; the Division Bench of our High Court held - "we will assume that in so far as the dismissed or retrenched workman is able to approach the Labour Court straight-away, the power of the Central Government to make a reference of the dispute may be whittled down protanto and in that sense there is a conflict or repugnancy with sub-section (2) of section 2(A) and Section 10(1) r/w sub-section (1) of section 2-A and Section 3 of the Act. Even then, the Presidential assent given under Article 254(2) makes the State law prevail over the provisions of the Central law to the extent of repugnancy". It also further observed Industrial Disputes Act, 1947, Section 2-A(2) - Not confined to workmen employed in Industrial undertakings of State Government- It applies also to workmen engaged in Central Government undertakings.

21. If the plea of the respondent is considered in the light of the above case law, it falls to the ground, because, Section 2-A(2) of I.D Act, 1947 applies both to the workmen employed in Industrial undertakings of State Government and also to the workmen engaged in Central Government undertakings.

22. In other words, it can be said it is for the workman to approach U/Sec.2-A(2) of I.D., Act, either to the Industrial Tribunals having Central jurisdiction and also the Tribunals having State jurisdiction.

23. In view of the above, I hold that this Tribunal is having jurisdiction to decide the industrial dispute on hand and the petition filed by the petitioner is maintainable. The point is answered accordingly.

24. POINT No. 2:—

Ex.W-1 is the served copy of the dismissal order dtd.13-9-2007; Ex.W-2 is the office copy of the demand notice dtd.16-4-2008 issued by the petitioner requesting the respondents to reconsider the decision of his dismissal from service and to reinstate him into service with all benefits; Ex.W-3 is the postal receipt and Ex.W-4 is the postal Ack., for Ex.W-2. Ex.W-5 is the pay slip of the petitioner for the month of December, 2004 which shows that the petitioner had put up 151 total musters during the said year of 2004.

The petitioner has not obtained any prior sanction of leave from the respondents by filing the medical documents to substantiate the genuine causes of his ill health, ill health of his mother and his wife. But, before this Tribunal the petitioner filed the medical record issued by the respondents' SCCL area hospital, Godavarikhani in respect of himself, his mother and his wife marked under Ex.W-6 to W-8. Ex.W-6 are the out door tickets of the petitioner numbering (6) issued by the SCCL Area Hospital, Godavarikhani for the months of January, February, June,

August and September, 2007; Ex.W-7 are the out door tickets issued by the SCCL Area Hospital, Godavarikhani to the mother of the petitioner by name Saroja numbering 12 during the period from 20-6-2006 to 13-5-2007 which is covering part of the charge period. Ex.W-8 are the out door ticket dtd.25-9-2006 and antenatal record for the period from 25-9-2006 to 31-1-2007 issued by the SCCL Area hospital, Godavarikhani to the wife of the petitioner by name Swarupa. These documents also cover later part of the charge period. The medical record marked under Ex.W-6 to Ex.W-8 shows that the petitioner, his mother and his wife were suffering from ill health and they underwent treatment in the SCCL area hospital, Godavarikhani during the years 2006 to 2007.

25. Ex.W-9 is the served copy of the charge sheet which shows that the petitioner put up only 82 attendance during the year 2006. It further shows that the petitioner had put up 151 actual musters during the year 2004 and another 151 actual musters during the year 2005.

26. Ex.W-10 is the served copy of the letter of the 1st respondent sent to the petitioner along with enquiry report and enquiry proceedings, giving opportunity to the petitioner to make his representation against the findings contained in the enquiry report within (7) days. though it is styled as "show cause notice", it is not a show cause notice and the punishment of dismissal from service is not proposed in this letter.

27. Turning to the documents marked on behalf of the respondents. The charge sheet marked under Ex.M-1 shows that the petitioner "absented from duty without any authorised leave, sick or prior permission during the period from January, 2006 to December, 2006 and put in only 082 attendance during the said year 2006. It also shows that the petitioner had put in 034 actual musters during the year 2003, 151 musters during the year 2004 and 151 musters during the year 2005. Therefore he was required to submit his written explanation within (4) days of the receipt of the above charge sheet as to why disciplinary action should not be taken against him. If he does not submit written explanation within the stipulated time, the same will be dealt with on the information available at this end". The above is the gist of the charge levelled against the petitioner.

28. For the above charge sheet, the petitioner submitted his reply marked under Ex.M-3. Under this reply, he stated that due to his ill health he could not attend to his duties regularly during the year 2006 i.e., for the charge period. He further stated that his mother and his wife also suffered from ill health and because he being the head of his family as his father was no more, he has to look after all the affairs of his family. Therefore, he sought to excuse him. Ex.M-2 is enquiry notice. Ex.M-4 are the enquiry proceedings. During the enquiry, the statements of the pay sheet clerk by name Sri T.Narsaiah and Sri I. Chandrasekhar Rao, Office Superintendent were recorded

by the enquiry officer. Opportunity was given to the petitioner to cross examine them. The statement of the petitioner was also recorded. In this statement also, the petitioner stated the same grounds as explained in his reply to the charge sheet, marked under Ex.M-3 for his absenteeism during the charge period and reiterated that the reasons for abstaining from his duties are because of his ill health, of his mother and of his wife. He further stated that he was unable to produce the record as he has not brought the same and requested the respondents to give him a final chance to improve his attendance. But during cross examination by the proceedings officer, the petitioner admitted that it is his mistake and he begs apology for the same.

29. Ex.M-5 is enquiry officer's report. In this report, there is no discussion on the defense put forth by the petitioner, the ill health of his mother, of his wife and his ill health; they were not considered and not rejected by the enquiry officer. Whether the defense of the petitioner amounts to sufficient cause or not, was not at all concluded and there is no discussion in enquiry report, on this point.

30. Ex.M-6 is the undertaking given by the petitioner after attending the counseling on 6-6-2007. It is curious to note that the entire proceedings of enquiry were recorded on the same day on 6-6-2007 and the said counseling was also given to the petitioner on 6-6-2007. Ex.M-7 is the office copy of the letter of respondent requiring the petitioner to make his representation against the findings contained in the enquiry report, the served copy of which is marked under Ex.W-10, as discussed supra. It is not a show cause notice and the punishment of dismissal was not at all proposed by the 2nd respondent under this document.

31. The grounds, stated by the petitioner for not attending to his duty and putting 82 musters during the charge period of 2006, are almost one and the same as that of his reply to the charge sheet under Ex.M-3 and his statement before the enquiry officer marked under Ex.M-4. But the 2nd respondent also, like enquiry officer, failed to apply its mind and not at all given any consideration to the grounds explained by the petitioner. The office copy of dismissal order passed by the 2nd respondent is marked as Ex.M-8, served copy of which is marked as Ex.W-1.

32. From the foregoing discussions and the record placed before this court, whether the cause of ill health shown by the petitioner under Ex.M-3 his reply to the charge sheet and Ex.M-5 his deposition before the enquiry officer which were not considered by both the E.O., and the 2nd respondent, whether they are sufficient causes or not for the absenteeism during the charge period according to the standing order No.25.25, are not at all considered by the 2nd respondent. Whatever it may be, on account of the admission of the petitioner that he put in only 82 actual musters during the year 2006, it can be rightly said that the charge framed against the petitioner is proved. The point is answered accordingly.

33. POINT NO.3:—

As seen from Ex.M-8 the dismissal order now in question, after calling the representation of the petitioner on the enquiry findings report under Ex.M-7, the 2nd respondent has not issued any show cause notice proposing the punishment of dismissal from service and straight away passed the order under Ex.M-8 dismissing the petitioner from service w.e.f., 17-9-2007. It is clear from the defense put forth by the petitioner and the medical record placed before this court marked under Ex.W-6 to W-8, clearly shows that the petitioner, his mother and his wife were suffering from ailment and they were imparted treatment during the year 2006 i.e., during the charge period and also subsequently during the year 2007. Even according to the standing order No.25.25 of the respondents company, habitual late attendance or habitual absence from duty without sufficient cause, amounts to misconduct. But the explanations of the petitioner at all the stages clearly show that there was reasonable and sufficient cause for his absenteeism and for his putting in 82 actual musters during the year 2006.

34. It is the case of the petitioner that he was appointed as Badli filler by the respondents company under the dependent employment scheme in place of his deceased father Prabhakar. So, it is natural on the part of the petitioner to attend on his mother and also his wife, he being the head of the family. Admittedly the petitioner put up 151 actual musters during the previous years 2004 & 2005. This aspect coupled with Ex.W-6 to W-8 medical record lends support to the case of the petitioner.

35. While arguing the case, the learned counsel for the respondents contended that the termination of the petitioner was made after giving notice and it is not liable to be challenged. In support of his contention, the learned counsel relied on the decision reported in 2002(1) ALD-314 D.B., of A.P., High Court in W.P. No. 30036/1995 between Thimmaiah V/s., Additional Industrial Tribunal-cum- Additional Labour Court, Hyderabad and another. In this case their Lordships have observed that the termination from service on the ground of continued absence from duty under the standing orders does not amount to retrenchment. When such order of termination was made after giving notice to the employee, it is not liable to be challenged. But it is pertinent to note that in this reported case, the Labour Court directed for reinstatement of the petitioner therein into service, U/Sec. 11-A of I.D., Act, and their Lordships have up held the reinstatement directed by the Labour Court.

36. On the other hand, the learned counsel for the petitioner submitted that this Tribunal can temper justice and give an opportunity to the erring petitioner to reform himself. He further contended that this court can interfere with the punishment of dismissal which is disproportionate to the lapse of the petitioner, by giving reasons. In support of the above 2 propositions, the learned counsel relied on

the decisions of the Hon'ble Apex Court reported in:—

(1) AIR 1988 S.C., 303 in SLP(Civil) No.7437/1998, dtd. 30-9-1998 between Scooter India Ltd., Vrs., Labour Court, Lucknow and others.

(2) 2009-IV-LLJ-672 SC in C.A.Nos.5762-5763/2009, dt.24-8-2009 between Chairman-cum-Managing Director, Coal India Ltd., and another Vrs., Mukul Kumar Chouduri and others.

37. In the 1st cited case law it was held by their Lordships of the Hon'ble Apex Court wide powers are vested in the Labour Court/Industrial Tribunal and it can temper justice with mercy and give an opportunity to erring workman to reform himself. By observing so, their Lordships have upheld the order of Labour Court which was confirmed by the High Court.

38. In the 2nd cited case law their Lordships of the Hon'ble Apex Court observed though the charge of absenteeism is admitted by the employee, the punishment of dismissal held harsh and denial of back wages would be sufficient punishment.

39. Further the record placed before this court clearly shows that after giving opportunity to the petitioner to make his representation if any on the enquiry findings report through the letter marked as Ex. M-7, the 2nd respondent directly imposed the capital punishment of dismissal from service on the petitioner, without issuing any show cause notice proposing the said punishment of dismissal. It is, in my considered opinion, is arbitrary and contrary to the principles of natural justice. I further hold that the extreme punishment of dismissal from service imposed by the respondent is highly excessive and shockingly disproportionate to the proved charge and therefore it is liable to be set aside.

40. In view of the foregoing discussion and in the light of the above cited case laws and in view of my findings on points 1 & 2, I am of the considered opinion that this is a fit case to exercise the discretionary powers Under Sec. 11-A of I.D., Act and I hold that the punishment of dismissal from service is highly excessive, shockingly disproportionate to the gravity of the proved charge and it is not at all warranted. Therefore, it is liable to be set aside and the petitioner be given an opportunity to reform himself. The point is answered accordingly.

41. POINT NO. 4:—

In view of my findings on Points 1 to 3, I am under the considered opinion that denial of entire back wages would be sufficient punishment for the petitioner, which would meet the ends of justice.

42. In the result, the petition is partly allowed setting aside the dismissal order dtd.13-9-2007 marked under Ex.M-8 passed by the 2nd respondent. The respondents' company is hereby directed to reinstate petitioner into service with continuity of service and all other attendant

benefits, but without any back wages, within one month from the date of gazette publication of this award. The I.D., is disposed of accordingly, but in the circumstances without any costs.

Typed to my dictation directly by Typist, corrected and pronounced by me in the open court on this, the 13th day of April, 2012.

M. SYAMALAKARAO, Chairman-cum-Presiding Officer

Appendix of Evidence

Witnesses Examined

For workman:—
-Nil-

For Management:—
-Nil-

EXHIBITS

For workman :—

Ex.W-1 Dt. 13-9-2007	Dismissal order
Ex.W-2 Dt. 16-4-2008	Demand notice
Ex.W-3 Dt. 17-4-2008	Postal Receipt
Ex.W-4 Dt. 20-4-2008	Postal Ack., card
Ex.W-5 Dt. —	Pay slip for the month of December, 2004.
Ex.W-6 Dt. 23-1-2007	Out door tickets, Sector-III DISP RG-(6) slips during the period from 23-1-2007 to 9-9-2007.
Ex.W-7 Dt. 20-6-2007	Out door tickets, SCCL Area Hospital (12) slips during the period from 20-6-2006 to 5-7-2007.
Ex.W-8 Dt. 25-9-2006	Out door tickets, SCCL Area Hospital and attendance record SCCL hospitals during the period from 25-9-2006 to 12-3-2007.
Ex.W-9 Dt. 8-5-2007	Charge sheet
Ex.W-10 Dt. 18-6-2007	Show cause notice
For Management :—	
Ex.M-1 Dt. 8-5-2007	Charge sheet
Ex.M-2 Dt. 25-5-2007	Enquiry notice
Ex.M-3 Dt. 6-6-2007	Reply to charge sheet
Ex.M-4 Dt. -do-	Enquiry proceedings
Ex.M-5 Dt. -do-	Enquiry report
Ex.M-6 Dt. -do-	Undertaking given by the petitioner after attending the counseling
Ex.M-7 Dt. 18-6-2007	Show cause notice
Ex.M-8 Dt. 13-9-2007	Dismissal order.

नई दिल्ली, 27 अप्रैल, 2012

क.आ. 1720.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध

में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/भ्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 125/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/354/1997-आईआर (सी-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 27th April, 2012

S.O. 1720.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 125/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 27-4-2012.

[No. L-22012/354/1997-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/125/98

Presiding Officer : SHRI MOHD. SHAKIR HASAN

The Working President,
Madhya Pradesh Koyla Shramik Sangh,
HO : Banki, PO : Bankimongra,
Distt. Bilaspur (MP)

....Workman

Verans

Dy. General Manager,
SECL, Surkachhar Colliery,
PO : Banki Mongra,
Distt. Bilaspur (MP)

...Management

AWARD

Passed on this 2nd day of April, 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/354/97-IR(CM-II) dated 22/25-5-1998 has referred the following dispute for adjudication by this tribunal:—

“Whether the demand of the Working President, M.P. Koyla Shramik Sangh (CITU) for promotion of Shri Ramayana S/o Shri Munshi Mechanical Fitter, Grade V to Grade VI by the management of SECL, Surakachhar Colliery, Distt. Bilaspur is justified? If so, to what relief the workman is entitled?”

2. The case of the Union/workman in short is that the workman Shri Ramayana was promoted in the cadre of Mechanical Fitter, Grade V w.e.f. 4-11-91. The promotion from Grade V to Grade VI was to be made on the basis of “Seniority-Cum-Fitness”. It is stated that Shri Shiv Prasad, Shivchand Singh and Jhantoo were juniors to him and were promoted from Grade V to Grade VI. The workman had

unblemished record of service but to favour the persons of the choice of management, a trade test was conducted wherein he was declared as fail though earlier never a trade test was conducted. It is stated that the action of the management is not fair and justified. It is submitted that the reference be answered in favour of the workman.

3. The management appeared and filed Written Statement to contest the reference. The case of the management, inter alia, is that the workman was admittedly promoted from Cat.-IV to Cat.-V w.e.f. 4-11-91. It is stated that the promotion from Cat.-V to Cat.-VI is based on merit-cum-seniority and trade test which is compulsory. There was no supersession of Shri Ramayan. The DPC fixed the date 29-6-96 for Trade Test but the workman could not qualify the Trade test. As such his name was not recommended for promotion to Cat.-VI by the DPC. It is stated that the action of the management is proper and justified which was within the scope of cadre scheme. It is submitted that the workman is not entitled to any relief.

4. On the basis of the pleadings of the parties the following issues are framed—

I. Whether the demand for promotion of Shri Ramayan, Mechanical Fitter Grade-V to Grade-VI is justified?

II. To what relief the workman is entitled?

5. Issue No. I

To prove the case, the Union has examined oral and documentary evidence. The workman Shri Ramayan is examined as a witness. He has supported the case of the Union. He has stated that he was promoted to Category V in the year 1991. He has admitted that it is necessary to pass Trade Test for promotion. His name was considered for promotion from Cat.-V to Cat.-VI by the DPC and Trade Test was conducted. He does not know as to what marks he obtained in Trade Test. He has also stated that he cannot say the date of appointment of Sheo Prasad, Sheo Chand Singh, Mawala and Jhantoo. It is evident from his evidence that Trade Test was compulsory for promotion. It is also not clear that juniors were promoted to Cat.-VI.

6. The workman/Union has filed Cadre scheme which is submitted by the management. It is marked as Exhibit W/1. It is clear from Exhibit W/1 that minimum qualification for Mechanical Fitter, Cat.-VI is literate and eligibility for promotion is three years experience as Mechanical Fitter in Cat.-V. These criteria appear to have been fulfilled by the workman and as such he was advised by the DPC to appear in the Trade Test. The mode of promotion in the cadre scheme is prescribed as DPC and Trade Test. The Cadre Scheme clearly shows that the recommendation of DPC on the basis of Trade Test was required for promotion to Cat.-VI.

7. The management has also adduced oral evidence and has filed the original documents of the DPC whereby

the promotion was given to Cat.-VI. The management witness Shri K. K. Chakravarty is working as Personnel Manager in SECL. He has stated in his evidence that the workman was considered but he could not qualify the Trade Test and the DPC had not recommended his name for promotion. He has also stated that the promotion from Cat. V to VI is based on merit-cum-seniority.

8. The original documents of the DPC shows that the qualifying marks were fixed as 10 marks and the workman had secured 8 marks in Trade Test and as such DPC had not recommended his name for promotion on 7-8-96. I find that there was no illegality committed by the DPC in recommending the names for promotion of eligible candidates. Thus it is clear that the action of the management is justified and was in accordance with the cadre scheme. This issue is decided against the Union/workman and in favour of the management.

9. Issue No. II

On the basis of the discussion made above, it is clear that the demand of the Union for promotion of Shri Ramayan from Mechanical Fitter Cat.-V to Cat.-VI is not justified. The workman is not entitled to any relief. Accordingly the reference is answered.

10. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 27 अप्रैल, 2012

का.आ. 1721.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 28/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/287/1992-आईआर(सी-II)]
डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 27th April, 2012

S.O. 1721.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 28/93) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of SECL, and their workman, which was received by the Central Government on 27-4-2012.

[No. L-22012/287/1992-IR (C-II)]
D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/28/93

Presiding Officer : SHRI MOHD. SHAKIR HASAN

Vice President,
M.P. Koyla Shramik Sangh,
PO : Kurasia Colliery,
Distt. Surguja (MP) ...Workman

Versus

Dy. General Manager/Sub Area Manager,
Chirimiri Colliery,
Distt. Surguja (MP) ...Management

AWARD

Passed on this 3rd day of April 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/287/92-IR(C-II) dated 25-1-93 has referred the following dispute for adjudication by this tribunal :—

"Whether the action of the Dy. Chief Mining Engineer, Chirimiri Colliery of SECL, in punishing Shri K.C. Mishra the then Trainee Dragline Operator, Chirimiri Opencast Mines by way of confirming suspension period i.e. 20-1-83 to 31-3-83 is legal and justified? If not, to what relief the workman is entitled to?"

2. The case of the Union/workman, in short is that the workman Shri K.C. Mishra proceeded on leave for the period of 16-12-82 to 1-1-83 after obtaining sanction from management and went to his native village. He fell sick and could not join on duties on 2-1-83. After recovery from illness he came on duty and produced medical certificate to the management of Chirimiri Colliery to allow him to resume duty w.e.f. 5-1-83. The medical certificate was certified by the colliery doctor also. It is stated that during his illness, he had not received any communication from the management. However the departmental enquiry is initiated against him by the management. It is stated that no reasonable opportunity was given in violation of

the principle of natural justice to defend himself. The findings of the Enquiry Officer is perverse and is not based on the material on record. It is stated that the chargesheet was issued to harass the workman as he was active in trade Union. It is stated that no subsistence allowance was paid to him during suspension period. After enquiry the Disciplinary authority passed the order of punishment on 8-5-83 by awarding him the confirmation of suspension period from 20-1-83 to 31-3-1983 as punishment and by awarding warning also to be recorded in his service book. It is stated that in the standing orders no such punishment is prescribed about the confirmation of the suspension period. It is stated that the wages of the workman cannot be deprived of the period of suspension. It is submitted that the reference be answered in favour of the workman.

3. The management appeared and contested the reference by filing Written Statement. The case of the management, inter alia, is that the workman was working as a Drag Line Operator. He was admittedly granted leave from 16-12-82 to 1-1-83 on certain emergency and urgent work his leave was cancelled and a telegram dated 26-12-82 was sent to report on duty immediately. In spite of this, he did not join even after the lapse of his leave. He did not join duties upto 19-1-1983. As such a chargesheet dated 19-20-1-83 was issued to the workman. His reply was unsatisfactory and therefore a departmental enquiry was initiated and Shri D. Kumar was appointed as Enquiry Officer. After enquiry, the Enquiry Officer submitted his enquiry report holding him guilty of the charges. The principle of natural justice was followed in conducting the departmental enquiry. On the basis of entire facts and circumstances, the Competent Authority imposed the punishment of confirmation of suspension for the period from 20-1-83 to 31-3-83 on the workman. It is stated that a lenient view was taken and the action of the management is just and proper.

4. On the basis of the pleadings, the following issues are framed—

- I. Whether the enquiry is just, proper and legal?
- II. Whether the management is entitled to lead evidence before this Tribunal?
- III. Whether the charges of misconduct are proved on the facts of the case
- IV. Whether the punishment awarded is proper and legal?
- V. Relief and costs.

5. Issues No.1 and 2

These issues are taken up as preliminary issues by the predecessor's Tribunal. It is evident that the enquiry is held just and proper. Issues No.1 and 2 are answered in favour of the management vide order dated 27-9-1995. This

order is not challenged further. Thus these two issues are already earlier decided.

6. Issue No. 3

Now the important point is as to whether the charges of misconduct are proved on the facts of the case. It appears that none of the parties have adduced any fresh evidence in the case. The evidence adduced by the parties before the Enquiry Officer is relied by either of the parties. The management has filed the original departmental enquiry papers.

7. The following facts appears to be admitted by the parties—

- I. The workman was working as a Drag Line Operator and he was granted leave from 16-12-82 to 1-1-83 by the management.
- II. The workman did not join after expiry of the leave on 2-1-83 and joined on 20-1-83 though he reported on 15-1-1983.
- III. He was suspended w.e.f. 20-1-83 till 31-3-83.
- IV. He was chargesheeted for his absence on 19-20/1/83
- V. The departmental enquiry was initiated. Thereafter he was held guilty of the charges by the Enquiry Officer.
- VI. The Disciplinary Authority after considering the findings of the Enquiry Officer and materials on record awarded the following punishments vide order dated 8-5-1983—
 - a. The suspension period of Shri K.C. Mishra, Trainee Dragline Operator, Chirimiri Open Cast Mine w.e.f. 20-1-83 to 31-3-83 is hereby confirmed as punishment.
 - b. Shri K.C. Mishra, Trainee, Dragline Operator, Chirimiri Opencast Mine is hereby warned severely and in case he commits any misconduct in future, the matter will be viewed very seriously.
 - c. These punishments be recorded in his service sheets.

8. The evidence adduced before the Enquiry Officer and the findings of the Enquiry Officer show that admittedly after 2-1-83, the workman was not on leave and there was no proof to show that the application for extension of leave was received by the management like wise there was no proof that telegram was received by the workman of his cancellation of leave. It also appears from the findings of the Enquiry Officer that he had considered the medical certificate produced by the delinquent workman but the medical certificate shows that he became

fit on 12-1-1983 but admittedly the workman reported on duty on 15-1-1983. There was no explanation of non-joining after 12-1-83. Thus I find that the finding of the Enquiry Officer is not perverse.

9. The point is raised that there is no punishment prescribed in Standing Orders that suspension period is treated as punishment. The learned counsel for the management argued that the Tribunal can interfere in the order of punishment only in the case of discharge or dismissal under Section 11 A of the Industrial Dispute Act, 1947 (in short the Act, 1947). However the management has failed to show that in the standing orders suspension period is also considered as a punishment. It appears that the suspension period is confirmed as a punishment in a view that he was not entitled to any wages in the said period. It is raised that the subsistence allowance was not paid during the period of suspension. The management has not denied this pleading. It is a settled principle that the subsistence allowance cannot be withheld in any case. This shows that the workman is entitled to be paid subsistence allowance of the period of suspension only. With the above findings, I do not find proper to interfere in the order of punishment awarded by the management. This issue is accordingly decided in favour of the management.

10. Issue No. 4 & 5

Considering the discussion made above, it is clear that the punishment awarded by the management needs no interference. However the management is directed to pay subsistence allowance of the period of suspension to the workman. With above direction, the reference is accordingly answered.

11. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 27 अप्रैल, 2012

का.आ. 1722.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसंरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 121/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/288/2001-आईआर(सीएम-II)]

डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 27th April, 2012

S.O. 1722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 121/2002) of the Central Government Industrial Tribunal-cum-

Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Wani North Area of Western Coalfields Ltd., and their workmen, received by the Central Government on 27-4-2012.

[No. L-22012/288/2001-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

No. CGIT/NGP/121/2002

Date 18-4-2012

Party No. 1 : The Chief General Manager,
Wani North Area of WCL,
PO: Ukni, Tehsil: Wani,
Distt. Yavatmal (MS)

V/s

Party No. 2 : The Secretary, RKKMS(INTUC),
Branch Wani North Area,
PO: Ukni, Tehsil: Wani,
Distt. Yavatmal (MS)

This is a reference made by the Central Government for adjudication of the industrial dispute between the employers in relation to the management of Wani North Area of WCL, and their workman, N.P. Thenge, for adjudication, as per letter No. L-22012/288/2001-IR (CM-II) dated 10-07-2002, with the following schedule:

"Whether the action of the management in relation to Wani North Area of WCL in dismissing Shri N.P. Thenge, operator, Wani North Area of Western Coalfields Limited vide order No. WCL/WNA/GM/PER/32/708 dated 12/18-5-2000 is legal and justified? If not, to what relief the legal heirs of the workman are entitled considering that the workman has died on 5-4-2001 after his dismissal from service?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the union filed the statement of claim on behalf of the legal heirs of the workman and the management of WCL filed the written statement.

The union has claimed that as the dismissal of the deceased workman N.P. Thenge from service w.e.f. 18-5-2000 was illegal and unjustified, the legal heirs of N.P. Thenge are entitled to get the full back wages and other consequential benefits and the widow of N.P. Thenge is entitled for compassionate appointment.

3. The management of WCL in the written statement denied the allegations made in the statement of claim and pleaded inter-alia that the dismissal of the workman was

justified and legal and as such, his legal heirs are not entitled for any relief.

4. It is necessary to mention here that while the case was posted for hearing of argument on the validity of the departmental enquiry, on 19-1-2012, the union representative filed an application to close the reference with liberty to restore the proceedings subsequently, as the legal heir-ship of the deceased workman is sub-judiced.

5. The case of the union is that the present industrial dispute was raised by the union before the Conciliation Officer on 18-8-2000 and during the pendency of the conciliation proceedings, the workman died on 5-4-2001, due to drowning and as such, his L. Rs. were impleaded and the dispute was referred to this Tribunal for adjudication and after the death of the workman, multiple claims have been preferred by some women for succession certificate from the Court of Law and the matter of succession is sub-judiced amongst multiple wives claiming to receive the terminal benefits of the deceased workman and as such, it is difficult for the union to lead evidence on behalf of any of the L. Rs till the dispute of legal heirs is decided finally by the Competent Court of Law and as such, the present reference be closed till the legal heir ship of the deceased workman is decided by the Competent Court of Law with liberty to restore the same at a later stage.

6. The management of WCL resisted the petition by pleading inter alia in the reply that the grounds on which the closure of the case and reopening of the same at a later stage have been taken by the union are abstract, vague and beyond the provisions of the law and the union has not mentioned as to whether any suit has been filed before the appropriate Court or not and no supporting documents have also been filed and as such, no action can be taken on the application of the union and there is no provision in the I.D. Act empowering the Tribunal to stay keeping in abeyance the proceedings and as such, the petition is liable to be rejected.

7. Perused the record. Admittedly, the reference has been made to adjudicate as to whether the legal heirs of the deceased workman are entitled to any relief or not. When the union has come forward with an application that number of women have claimed themselves to be the wife of the deceased workman to receive the terminal benefits of the deceased workman, it is natural that no effective adjudication can be made by this Tribunal unless and until the claim of legal heir ship of the deceased workman is finally decided by the Competent Court of Law. However, there is no provision to stay or to keep in abeyance the reference by the Tribunal. Hence the proceedings is to be dropped with liberty to the legal heirs of the deceased workman to re-agitate the dispute before the concerned Labour Commissioner for fresh reference in accordance with law, after the legal heir-ship is finally

decided by the Competent Court of Law, if they are so advised. Hence it is ordered:

ORDER

The reference is dropped. The legal heirs of the deceased workman are given liberty to re-agitate the dispute before the concerned Labour Commissioner for fresh reference in accordance with law, after the legal-heir-ship is finally decided by the Competent Court of Law, if they are so advised.

J. P. CHAND, Presiding Officer

नई दिल्ली, 27 अप्रैल, 2012

कार.आ. 1723.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 7/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/127/2008-आईआर(सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 27th April, 2012

S.O. 1723.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Ltd., and their workmen, received by the Central Government on 27-4-2012.

[No. L-22012/127/2008-IR (CM-II)]

D. S. S. SRINIVASARAO, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT /NGP /7/2009

Date: 17-4-2012.

Party No. 1 : The Sub Area Manager,
Gouri Sub Area of Ballarpur Area,
Western Coalfields Limited,
At & PO: Ballarpur,
Distt. : Chandrapur (MS)

Versus

Party No. 2 : The Working President,
Rashtriya Colliery Mazdoor Congress,
At Vijay Bhawan, Vitthal Mandir Ward,
Chandrapur. (MS)

AWARD

(Dated: 17th April, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and their workman Shri N.M. Janjaria, for adjudication, as per letter No.L-22012/ 127/2008-IR (CM-II) dated 17-2-2009, with the following schedule:—

"Whether the action of the management of Gauri Sub-Area of WCL in refusing promotion to Shri N.M. Janjaria, ignoring his merit and seniority is justified?

2. Whether denying and depriving him form Accommodation facility on the ground of availing Housing loan is reasonable, legal and fair?

3. To what relief is the said workman represented through the RCMS Union is entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri N.M. Janjaria, ("the workman" in short), filed the statement of claim and the management of the WCL ("Party No.1" in short) filed its written statement.

The case of the workman as projected in the statement of claim is that he belongs to SC community and he was due for promotion according to seniority w.e.f. 01-09-2005, but he was not given promotion by party no.1 and five juniors to him, namely, Shri Manoj Duttarwar, Shri Rajesh Khobragade, Shri Vasant D. Mahajan, Shri Morpakka and shri Girisila were promoted to fitter category-C from category-D, vide order dated 1-9-2005 and his confidential report was neat and clean and he was not considered for promotion only as because he belongs to SC community and thereby great injustice was caused to him and no reason for debarring him from promotion was communicated to him and there was no show cause notice, no enquiry and no charge sheet against him for any misbehaviour or misconduct, before debarring him from promotion. The further case of the workman is that the party No. 1 did not allot residential accommodation to him on the ground of his availing housing loan and though he availed housing loan, the house is yet to be made and the facts of loan facility and allotment of quarters are different to each other and there is no connection between them and not providing him residential accommodation by party no.1 is a great injustice against him and the actions of the party no.1 are illegal and against the principles of natural justice.

The workman has prayed for a direction to party no.1 to give him promotion and to provide residential accommodation.

3. The party no. 1 in its written statement has pleaded inter-alia that the terms of reference are vague, as the same do not indicate as to which promotion and for what post, the case of the workman was not considered and promotion cannot be claimed as a matter of right and the same is a managerial function and depends upon availability of sanctioned post, eligibility of the employee, determination of his merit and seniority and there is no concept of time bound promotion in the service condition. It is further pleaded by the party no. 1 that the terms of reference of accommodation facility are also vague and even if it is presumed that it pertains to non-allotment of quarter to the workman concerned, then also, it does not fall within any of the items of schedule I and schedule II of the Act and there is no service condition that every employee of WCL will be provided quarters by the management on his entering service and even thereafter and the facility of quarter is a non-statutory welfare measure not enforceable in law and the reference is not maintainable.

It is further pleaded by the party no.1 that the statement of claim has been signed by the workman, but he was not a party to the alleged industrial dispute. and the union has raised the dispute and as the union has not filed the statement of claim, the statement of claim filed on record is unsustainable in law and is liable to be rejected and the union, which has raised the dispute is an union on paper as per its best of knowledge and the same is not functioning at Gauri Mine no. 2 and Gauri Sub-area and does not have any following at the concerned establishment and the person, who has espoused the cause, namely, Shri G.S. Ishwarkar is a practicing advocate and is not an office bearer of the union and therefore, the alleged dispute raised by him as working President is not an industrial dispute and hence not maintainable and no document or material has been produced evidencing that the cause of action of the workman has been supported, espoused and championed by the union by necessary and due resolution and as such, the reference is not maintainable.

The further case of the party no.1 is that inter cadre promotions of the employees working in the establishments of the employers are given effect to in accordance with the norms and procedure laid by the JBCC at Industry level and clear cut guidelines so far as procedure and other related aspect concerning it as issued by the Headquarter and Area Headquarter and promotions in higher grades are processed by the departmental promotion committee and the DPC considers the candidates fulfilling the required eligibility and norms and recommends the names of selected employees for different categories of promotion, to the management and on the basis of such recommendations, management gives promotions to

selected employees and the said procedure was scrupulously followed in respect of the promotion of the workman and the workman was appointed in services as General Mazdoor in cat-I w.e.f. 19-3-1995 and subsequently, he was elevated as Maintenance Trainee in Category-II w.e.f. 1-7-1996 and then, he was promoted as EPGH in category-E w.e.f. 1-7-1997 and as E.P. Fitter grade w.e.f. 1-7-1999 and he was given up gradation (SLU) after completion of 8 years in the same category and he was placed in category-C w.e.f. 1-1-2008 and the workman was eligible for promotion to the post of category-C in the year 2003-2004 and his seniority was at serial no. 14, but there were only six sanctioned post in the man power budget for the said year and as such, the workman could not be promoted and in the year 2004-2005, only three posts of fitter category-C were available and the workman was at serial no.8, hence he could not be promoted and in the year 2005-06, the workman failed in trade test during the course of DPC and the DPC constituted for the purpose did not recommend his name and in the year 2006-07 again a DPC was held for the post of fitter category-C, but he could not be promoted as his performance was below required level and the DPC did not recommend his name and in the year 2007-08, another DPC was held, but the workman did not appear in the Trade test, therefore, his candidature was not considered and recommended by the DPC and it is therefore clear that no injustice was done to the workman by the management and his non-promotion was due to his performance in the respective tests and results and recommendations made by the concerned departmental promotion committee and there is no merit in the claim made by the workman and its action was legal and justified.

It is further pleaded by party no.1 that allotment of quarters to the employees is done on the basis of House allotment Rules and for the said purpose, housing committees have been constituted and these committees recommend the names of the employees, who apply for quarters on the basis of specified norms and the case of the workman for allotment of quarter was examined by the house allotment committee and his name was placed at serial no. 40 and therefore, he could not be allotted a quarter out of turn and the workman is being paid house rent allowance besides transport subsidy in terms of JBCCI. It is also pleaded by the party no. 1 that the five workers whose name have been mentioned in paragraph one of the statement of claim came to be promoted and rightly so, since they were promoted vide office order dated 1-9-2005 and as the workman was not declared successful by DPC, he could not be promoted and the workman was never debarred from promotion and the workman is not entitled for any relief.

4. It is necessary to mention here that though the case was adjourned from time to time from 27-9-2010 to 8-3-2011, to file rejoinder if any and evidence on affidavit by the workman, no affidavit or rejoinder was filed. The

workman remained absent and did not appear in the case. Neither the advocate nor anybody else also appeared on behalf of the workman. So, by order dated 8-3-2011, evidence from the side of the workman was closed.

Evidence of two witnesses, namely, Shri Jobi V.P. and Shri P. Srigopal on affidavit was filed from the side of the party no.1. As neither the workman nor anybody else appeared on behalf of the workman to cross-examine the witnesses for party no. 1, on 9-9-2011, order was passed to proceed with the case ex-parte against the workman and "no cross order of the two witnesses was passed. The evidence of the two witnesses remained unchallenged.

It is also necessary to mention here that on 21-11-2011 learned advocate for the workman filed an application to set aside the ex-parte order and to permit the workman to advance argument on merit of the case and learned advocate for the party no.1 did not raise any objection for the same, so the order to proceed ex-parte against the workman was recalled and argument was heard from both the sides and the case was posted for award.

5. At the time of argument, it was submitted by the learned advocate for the workman that the workman was due for promotion according to his seniority w.e.f. 1-9-2005, but he was not given promotion though five other junior employees were promoted to E.P. Fitter, category-C from category-D and the workman was denied promotion as because he belongs to SC category. It was further submitted by the learned advocate for the workman that as the workman had taken house building loan, he was not allotted quarters and such actions of the party no. 1 are illegal and as such, the reference is to be answered in favour of the workman.

6. On the other hand, it was submitted by the learned advocate for the party no. 1 that the reference is vague in as much as, there is no mention of the post/posts to which promotion was refused and date of such refusal for promotion and the reference was raised by the union, "Rastriya Koyla Mazdoor Congress", which is a party to the reference, but the said union has not filed any statement of claim and the statement of claim has been filed by the workman, who has no authority to file the same, so the statement of claim is invalid. It was further submitted by the learned advocate for the party No. 1 that promotion cannot be claimed as a matter of right and there are laid down norms and conditions for promotions and from the statement of claim it is found that the workman's grievance is regarding not giving him promotion in the year 2005 and promotion from E.P. Fitter category-D to category-C is being done with the recommendation of the DPC and the DPC held during 2003-04, recommended six candidates for promotion and the position of the workman was at serial no.14 and he was not recommended for promotion as there were only six posts for promotions and another DPC was held in 2004-05 and in that DPC

also, the name of the workman was not recommended for promotion, so he was not promoted and in the subsequent DPC also, the workman was not recommended for promotion and in the DPC held in 2008-09, the workman was recommended for promotion from category 'D' to category 'C' and accordingly the workman was promoted to category 'C' as per office order dated 15-11-2008. It was further submitted that allotment of quarters is made according to certain norms and rules and a quarter has already been allotted to the workman vide office order dated 3-3-2011 and as no illegality was caused by the party no. 1 against the workman and the workman is not entitled for any relief.

7. It is well settled that when a party challenges the legality of an order, the burden lies upon him to prove the illegality of the order and if no evidence is produced, the party invoking the jurisdiction of the court must fail. In this case, the workman though has challenged the legality of the order he has not adduced any evidence to prove the illegality of the order. On the other hand, the evidence adduced by the party no. 1 in support of its stands has remained unchallenged. The evidence of the two witnesses examined on behalf of the party no. 1 is in the same line of the pleas taken by party no. 1 in the written statement and such evidence has not been rebutted.

8. On perusal of the schedule of reference, it is found that the same is certainly vague, as there is no specification as to the post to which promotion was denied to the workman and the date on which such promotion was denied. However, from the statement of claim, it is found that the workman's grievance is regarding not promoting him to EP fitter grade-C from grade-D in the year 2005. From the unchallenged oral and documentary evidence on record (document D-19 to D-26 filed by party no. 1), it is found that such promotion is being made by party no. 1 on the basis of the recommendation of the DPC and the case of the workman was considered by the DPC held in 2004-05 for promotion alongwith other employees, but the DPC did not recommend the workman for promotion as he was found not fit for promotion, whereas, the five persons named in the statement of claim were recommended by the DPC for promotion and as such, the workman was not given promotion. The allegation made by the workman that he was not given promotion as he belongs to SC community is found to be baseless and there is no evidence on record in support of the same. It is necessary to mention here that the workman has not mentioned a single word about the DPC in his statement of claim. It is also found from record that the workman has already been promoted to EP fitter category-C by office order dated 15-11-2008 after the recommendation by the DPC held in 2008-09. Hence, there was no question of refusing promotion to the workman ignoring his merit and seniority as alleged.

9. So far the allotment of accommodation facility to the far the allotment of accommodation facility to the

workman is concerned, on perusal of the documents J/80, K/85 to K/90, L/91, M/92-93, N/94-95, O/96 and P/97 produced by party no. 1, it is found that allotment of quarters is being made on the basis of house allotment Rules and for the said purpose, housing committees have been formed and the committees recommend the name of the eligible employees, who apply for quarters, on the basis of the Rules and specific norms. It is also found from the documents that the case of the workman was considered by the housing committee and his name was placed at serial no. 40 and therefore, no quarters could be allotted to him out of turn. It is also found from the documents that the housing committee had reviewed the list of the employees entitled for quarters including the workman from time to time and when the turn of the workman came for allotment of quarters, he was allotted a quarters and such allotment was done as per office order dated 3-3-2011. There is no material on record to show that allotment of quarters was not made to the workman previously, on the ground of his availing house building loan.

It is clear from the materials on record and the discussions made above that no illegality was committed by party no. 1 either in giving promotion or in allotment of quarters to the workman and the workman is not entitled to any relief. In view of such findings, I do not think it necessary to discuss the other point raised by the learned advocate for the party no. 1 regarding filing of statement of claim by the workman instead of the union etc. Hence, it is ordered :—

ORDER

The reference is answered against the workman. As no illegality was committed by the management of Gouri Sub-Area of Ballarpur Area of WCL either in giving promotion or allotment of quarters to the workman, Shri N.M. Janjaria, the workman is not entitled to any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 27 अप्रैल, 2012

का.आ. 1724.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 6/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/247/2003-आईआर(सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 27th April, 2012

S.O. 1724.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 6/2006)

of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Ltd., and their workmen, received by the Central Government on 27-4-2012.

[No. L-22012/247/2003-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/Appln.6/2006 Date: 20-4-2012

Complainant : Vinod Tripathi S/o. D.N. Tripathi
Pump Operator, PO: Damua,
Distt. Chhindwara (M.P.)

Versus

Opposite Parties : The Manager, Tandsi Mine-1/2,
WCL PO- Rampur,
Distt. Chhindwara (MP)

: S.K. Dubey, Welfare Officer, WCL,
Tandsi Project, PO- Rampur,
Distt. Chhindwara (MP)

AWARD

(Dated: 20th April, 2012)

This is a complaint filed under section 33(1)(a) of the Industrial Disputes Act, 1947 ('The Act' in short).

2. The case of the complainant is that the Central Government had referred the industrial dispute between him and the management of WCL, Kanhan Area, Dunguria vide letter no. 22012/247/2003 IR(CM-II) dated 24-5-2004 with the schedule, "Whether the action of the management of Chief General Manager, of Western Coalfields Ltd., Kanhan Area, Dunguria, Distt. Chhindwara (MP) not confirming/promoting under clause 3.6 of Certified Standing Orders to Shri Vinod Kumar Tripathi, Pump operator in Category-IV w.e.f. 10-1-1997 is justified and if not, to what relief the workman concerned is entitled to?" and basing on the said reference, case No. 56/2004 has been registered by this Tribunal and during the pendency of the said industrial dispute and immediately before the commencement of the proceeding, the opposite parties altered his service conditions prejudicially and thereby contravened the provisions of Section 33 (1) (a) of the Act. The further case of the complainant is that while he was working in Tandsi project, he met with an accident on 18-1-2005 during the course of his employment in underground mine and he was admitted to Kanhan Area

company hospital and after a period of two months and 8 days, he was declared fit for 7 days light duty and he joined his duty on 23-3-2005 and worked till 25-3-2005 and before completion of 7 days light duty, though Shri A.I. Ansari, the safety officer forced him to do his original duty in underground mine, he refused to issue a mining helmet on 27-3-2005, even though issuance of such helmet was required, as because the earlier helmet issued to him was fallen down at the time of the accident and he was carried out in a senseless condition from the mine and on the refusal of the safety officer to issue the helmet, he applied for three days earned leave and the leave was sanctioned w.e.f. 28-3-2005 for 3 days and during the period of leave, he was attacked with malaria and, after treatment, he recovered, but he was attacked with infective hepatic and therefore, could not able to join duty from 1-4-2005 to 17-8-2005 and he intimated about his illness to the Manager, Tandsi project by letters dated 8-4-2005 and 20-6-2005 and after his full recovery from illness and declaration by the Government Medical Officer to be fit for resume duty, he reported for duty in writing on 18-8-2005 along with the fitness certificates, dated 1-4-2005, 30-6-2005 and 17-8-2005, but the opposite parties wrongly passed order under clause 12.5 of the Certified Standings orders, which is applicable to apprentice, Badli workers, casual workman and temporary workman and not to permanent workman and he was directed to appear before the Dy. Chief Medical Officer, WCL, Kanhan Area hospital for medical checkup, in spite of production of medical certificates and fitness certificates issued by the Govt. Medical Officer by him and providing of work was denied to him on the advice of the Welfare Officer of Tandsi project, who was acting against him since last 10 years and the Welfare Officer framed two charge sheets against him and obtained the signature of the Manager on the same and two charge sheets were issued against him on 27-8-2005 and 21-6-2006 respectively and the contents of both the charge sheets were vague and the Manager, Tandsi Mine was not competent to take disciplinary action against him and the opposite parties struck off his name from the roll of the company and thus altered the service conditions governed under clauses 26.30, 28.2 and 28.3 of the Certified Standing Orders during the pendency of the industrial dispute and he was also discriminated, as the employees, namely, Shri Bhurat and Shridhar were allowed to join duty without production of medical certificate and fitness certificate, even though, they were absent for sickness for more than 10 days and between 22-8-2005 to 12-12-2005 he met the Dy. Chief Medical Officer, but he was forced to return back without examination and lastly, the Dy. Chief Medical Officer demanded Rs. 3000 for such medical examination and he informed about the same to Shri S.K. Dubey, Welfare Officer. The workman has prayed to pass necessary orders on the complaint petition.

3. Both the opposite parties filed a joint written statement pleading inter-alia that the complainant has failed to explain the alleged contravention committed by them

and the pleadings made by the complainant are vague and no adjudication is possible, basing on such vague pleadings and the complainant has impleaded Shri S.K. Dubey as opposite party no. 2 by name and Shri Dubey was working as Sr. Personnel Officer and he had no independent role to play and he was not the controlling officer of the complainant and as such, Shri Dubey is not a necessary party and the complaint has impleaded him only to harass him and the complaint is not maintainable due to misjoinder of party. It is further pleaded by the opposite parties that though the workman submitted an application dated 8-4-2005 for extension of leave from 1-4-2005, he did not mention the period of leave required by him and the workman vide his application dated 20-6-2005 asked for extension of leave again, but in the said application also, he did not mention the period of leave required by him and the said application was also not accompanied with any medical certificate and from the photocopy of the medical certificates submitted by the workman, it was found that within a short period, he got treated by different doctors for different diseases and from different address and coal mine workers have been provided with medical facilities by WCL and the entire expenses of treatment is borne by the company and when an employee falls sick, he has to report to the medical officer of the company and the Medical Officer issues sick certificate and based on such sick certificate, the employee is granted sick leave till he is declared fit for duties, but the workman did not avail such facilities, so the Dy. CMO, Kanhan Area directed to the workman to appear before him with the documents regarding his treatment, on 24-8-2005, but the workman did not appear before him on the date fixed and as the workman remained absent from duty without any rhyme or reason, charge sheet was issued against him under the provisions of the Standing Orders, but no action was taken on the said charge sheet, with a view to grant an opportunity to the complainant to resume his duty and as the workman failed to report for duty and remained absent from duty unauthorizedly, without any intimation and sanctioned leave, he was issued with another charge sheet, dated 21-6-2006 and the complainant submitted his reply to the charge sheet, but as the reply was found not to be satisfactory, it was decided to conduct a departmental enquiry, hence vide order dated 14-10-2006, Shri Y.S. Rajput was appointed as the enquiry officer and the enquiry officer issued memo fixing the enquiry to 4-1-2007. The further case of opposite parties is that the complaint had raised the industrial dispute claiming promotion to the post of pump operator in Grade-V and reference case no. 56/2004 is in respect of the alleged promotion and the disciplinary proceeding initiated against the complainant has no relation with the reference case no. 56/04, therefore, the provisions of Section 33 of the Act are not attracted and the application has been filed to harass the management and amounts to misuse of process of law.

It is further pleaded by the opposite parties that the complainant was working as pump operator cat. IV and still his designation is the same and there is no change in service conditions and the manager is competent to initiate disciplinary action against the complainant and the name of the workman was not struck off from the roll of the company and the complainant has made highly objectionable and false allegations against the Dy. Chief Medical Officer and the application filed by the complainant is liable to be dismissed.

4. It is necessary to mention here that on 23-07-2009 and thereafter, neither the complainant nor anybody else on his behalf appeared in the case. Though the complainant had filed his evidence on affidavit, he did not appear for his cross-examination, inspite of adjournment of the case on several occasions for the said purpose. So, as per order dated 18-3-2011, the evidence of the complainant on affidavit was expunged and evidence from his side was closed.

The opposite parties filed the evidence of Shri Satish Kumar Dubey on affidavit. The evidence of Shri Dubey is in the same line of the stands taken by the opposite parties in the written statement. The evidence of Shri Dubey remained unchallenged as none appeared on behalf of the complainant to cross-examine him. As the complainant did not appear on 30-12-2011 also, order was passed to proceed with the case *ex parte* against him.

5. It is the admitted case of the parties that reference case no. 56/2004 is subjudiced, which has been referred for adjudication of the Industrial dispute between the parties regarding confirmation/promotion of the complainant as pump operator category V. In the present complaint, the complainant has alleged that his name was struck off from the roll of the company by the opposite parties and the same is contravention of the service condition. However, no evidence has been adduced by the complainant in support of such claim. Though, the complainant has referred to document no. A/21 to have been filed in this regard, in his rejoinder, no document bearing no. A/21 has been filed. However, document A/14 appears to be the document referred by the complainant in his rejoinder. On perusal of the document A/14, it is found that provisions of clause 12.05 of the Certified Standing Orders has been mentioned in the same, which is regarding availing of sick leave by the employees of WCL and the said document does not show that the name of the complainant was struck off from the roll of the company. The complainant has failed to produce any evidence to show that any contravention as mentioned under Section 33 (1) (a) of the Act was committed by the opposite parties. Hence, it is ordered :—

ORDER

The complaint petition is devoid of any merit and is dismissed.

J. P. CHAND, Presiding Officer

नई दिल्ली, 27 अप्रैल, 2012

का.आ. 1725.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नागपुर के पंचाट (संदर्भ संख्या 10/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/92/1996-आईआर(सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 27th April, 2012

S.O. 1725.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 27-4-2012.

[No. L-22012/92/1996-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/10/2003

Date: 20-4-2012

Party No. 1 : The Sub Area Manager,
WCL Saoner Sub Area,
P.O. : Saoner, Distt. Nagpur.

Versus

Party No. 2 : Shri Gangadhar Balmukund Gajbhiye
At. Jaibhole Nagar, Near Convent
School, P.O. : Khaperkheda,
Distt. Nagpur.

AWARD

(Dated : 20th April, 2012)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of WCL and their workman Shri Gangadhar Gajbhiye, for adjudication to CGIT-cum-Labour Court, Jabalpur, as per letter No. L-22012/92/96-IR (C-II) dated 14-03-1997, with the following schedule :—

"Whether the action of the management of Western Coalfields Ltd., Nagpur Area in dismissing Shri

Gangadhar Balmukund Gajbhiye, T.R. General Mazdoor Category-I from services w.e.f. 24-01-1994 is legal and justified? If not, to what relief is the concerned workman is entitled?"

Subsequently the case was transferred to this Tribunal for adjudication in accordance with law.

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Gangadhar Gajbhiye, ("the workman" in short), filed the statement of claim and the management of the WCL ("Party No. 1" in short) filed its written statement.

The case of the workman as per the statement of claim is that he was a regular workman of Pipla Colliery and he was not a workman of Saoner Colliery and he was transferred to Saoner Colliery temporarily to work for one month by an office order and while he was working at Pipla Colliery, he sustained fractured injury on his left foot and in 1990, he was declared unfit by the Medical Superintendent and in 1993, he received the copy of the conversion order of Pipla Mine and he submitted his joining report at Pipla Mine. The workman has prayed to give him justice.

3. The party no. 1 in the written statement has pleaded inter-alia that the workman while working as a loader in Pipla Colliery, on 7-6-1988, sustained injury on his left leg and remained on "injury on duty" from 7-6-1988 to 13-6-1988 and then he was examined by the company's doctor and declared fit for original job and after that he worked for 72 days as piece rated loader during the period from 19-6-1988 to 31-12-1988 and for 194 days (wrongly mentioned as 154 days in paragraph 4 of the written statement) in 1989 and was regularized as permanent loader and after January 1990 till 6-11-1992, he remained unauthorized absent without permission or prior information and during the period of such unauthorized absence, on 16-3-1990, he approached the Colliery Manager, Pipla Mine for his re-medical examination by the competent authority and his application was forwarded to WCL screening committee on 27-3-1990 for re-medical examination and accordingly, he was again examined by screening committee/Medical Superintendent, WCL Nagpur Area on 3-4-1990 and he was declared unfit for loader's job and the workman requested the management for alternate light duty on surface and did not want to accept the job of TR in underground and management of Pipla Colliery could not accept his contention of providing surface light job, however, the workman was offered an alternative job in underground, but he refused to accept the same and approached the ALC (C), Nagpur on 20-12-1990 by filing an application alleging non-providing of light surface duty and the ALC (C) after considering the offer given by the management, persuaded the workman to accept the offer and to join the duty and closed the

conciliation proceeding on 29-4-1991, finding no merit in the case of the workman, but thereafter, the workman instead of joining duty as offered by the management, preferred an appeal to the General Manager, mentioning his willingness to join back as piece rated loader and to allow him to join duty as a loader, so management referred his case for medical examination and he was medically examined by Area Medical Committee on 9-5-1991 and he was declared fit for original duty, due to natural improvement, so he was advised to report for duty to superintendent of Mines/Colliery Manager, Pipla Colliery and in spite of his own request and advice of local management, he did not report for his job of piece rated loader and asked to provide alternate light job on surface and served notice to CMD (WCL) by letter dated 21-8-1992 stating that if he would not been provided surface light duty, he would resort to hunger strike in front of the colliery Manager, Pipla Colliery w.e.f. 1-9-1992 and the workman was declared medically fit for the original job of loader and was willing to work as loader and due to non-availability of surface job, surface light job could not be provided to him, but in spite of the same, the workman started the proposed hunger strike w.e.f. 1-9-1992 and even after persuasion/assurance given by the management, he did not join the duty, but lastly, he himself called off the hunger strike and the workman gave threatening notice to CMD, WCL, Nagpur on 24-9-1992 stating that if he could not be provided surface light job, he would again start hunger strike in front of the office of the colliery Manager, Pipla Mine w.e.f. 7-10-1992 and seeing his attitude, behaviour and approach, no union supported him or pleaded his case and he was also not allowed by the State Authorities to start the proposed hunger strike on 07-10-1992 and on 8-10-1992, the wife of the workman obstructed the work of Pipla Mine for about four hours i.e. from 8 A.M. to 12 noon in the first shift and after due discussion at WCL Headquarters, the workman was offered surface light job at Saoner Mine of Nagpur Area, which is situated 15 KM from Pipla colliery, on 6-11-1992 for an initial period of one month and he joined duty at Saoner on 9-11-1992 and on expiry of one month's alternative surface time rated job, further extension of 15 days was given to the workman vide office order dated 12-12-1992, pending decision of WCL Headquarters, but the workman refused to accept the extension order and asked for posting at Pipla colliery itself, instead of Saoner project and he distributed printed pamphlets alleging atrocity on him by the management of WCL. The further case of the party no. 1 is that on 1-1-1993, sanction of competent authority was conveyed for conversion of the workman from piece rated to time rated temporarily and such arrangement was approved till the decision of the Apex Medical Board in respect of the workman and in the light of the letter dated 1-1-1993, another officer order dated 18-1-1993 was passed and the workman was temporarily posted at Saoner on his request, until the decision of his case is taken by the Apex Medical

Board and he was directed to report for duties to Additional CME/Sub Area Manager, Saoner, but the workman failed to report for duty, so as per order dated 13-3-1993, the offer of his engagement as mud pallet Mazdoor was withdrawn and the workman vide letter dated 18-3-1993 was advised to report to the Additional CME/SAM, Saoner project and the said letter was served on the workman through peon book and vide office order dated 13-4-1993, the workman was intimated to appear before the Medical Board on 19-4-1993 at 9.30 A.M. at Rajib Ratan Hospital, Ghugus for his medical examination, but despite of receipt of the said letter, the workman failed to appear before the Medical Board and the workman was provided surface light job of mud pellet worker at Saoner vide office order dated 25-5-1993, pending decision of the Apex Medical Board, but the workman refused to accept the offer and to join at Saoner and on refusal to accept official order, disciplinary action for his unauthorized absence and refusal to accept official communication was initiated and finally on 15-6-1993, he appeared before the Apex Medical Board and the Board recommended to give the workman alternative job and as per the recommendation of the Medical Board and approval of the competent authority for his conversion from piece rated loader's job to time rated category, the workman was advised vide letter dated 26-8-1993 to continue to his job at Saoner project, but he refused to accept the communication and finally the same was sent by RPAD post and copy of the letter was also served on the workman through peon book and thereafter, the workman changed his mind and requested for his posting at Mines rescue station at Nagpur, instead of Saoner and threatened the management to launch hunger strike with his family, in case of not considering his request and higher management was informed about the attitude of the workman and the management of Saoner Sub Area issued charge sheet dated 2-8-1993 for continuous unauthorized absence w.e.f. 18-1-1993 and the workman did not submit any reply to the said charge sheet, so management decided to conduct a departmental enquiry and appointed Shri T.K.N.P. Bhattacharya as the enquiry officer to conduct the enquiry and memo of enquiry was issued to the workman advising him to appear in the enquiry and to avail assistance of a co-worker, but he failed to avail the opportunity given to him, in spite of repeated reminders and sittings fixed by the enquiry officer and the workman did not attend the enquiry, even though there was publication of the memo of enquiry in the daily newspapers and management proved the charges against the workman by adducing oral and documentary evidence in the enquiry and the enquiry officer submitted his enquiry report holding the charges levelled against the workman to have been proved and the competent authority agreed with the findings of the enquiry officer and by order dated 24-01-1994, terminated the services of the workman and such order was also published in the daily newspaper and after dismissal from

services, the workman submitted an appeal to higher authorities for re-instatement and the competent authority favourably considered his appeal and approved his reinstatement as general mazdoor category-I, subject to his entering into a settlement in form 'H' and accordingly, a settlement in form 'H' was prepared on 2-5-1995 at Area Headquarters, Nagpur and the workman was asked to sign the said settlement, but he refused to sign the same and demanded for reinstatement without signing the settlement and as the workman was adamant in arriving at a settlement before the ALC during conciliation, the conciliation proceedings failed and failure report was submitted to the government and the workman is not entitled to any relief.

4. As this is a case of dismissal of the workman from services, after holding of a departmental enquiry, the validity of the departmental enquiry was taken up for consideration as a preliminary issue and by order dated 5-3-2007, the departmental enquiry held against the workman was found to be proper, legal and following the principles of natural justice.

5. At the time of argument, it was submitted by the learned advocate for the workman that the workman during the course of his employment sustained grievous injury on his left leg on 7-6-1988 and remained absent on I.O.D for 11 days and thereafter, he was declared fit for duty and worked from 19-6-1988 to 31-12-1988 and there was a grievous injury on his left leg, so he was on sick leave from January, 1990 to 06-11-1992 and remained at Walni Hospital and he was declared unfit by screening committee at Walni Hospital on 03-4-1990, but the unfit certificate was not given to him and the workman requested the management to provide him light work, but he was not provided with the light work, therefore, the workman approached the ALC by filing complaint on 22-10-1990 and as there was no compromise, the conciliation proceeding was closed by order dated 29-4-1991 and the workman requested the General Manager to provide him work and he was given job w.e.f. 9-5-1991 and as there was severe pain in his left leg, he was unable to perform his job properly, so he went on hunger strike on 01-9-1992 and he made several representations during the period from 1-5-1991 to 1-9-1992 to provide him light work, but the same were not considered by the management and the workman on 24-9-1992 again requested to CMD to provide him light work, but as no light work was provided, he went on hunger strike on 07-10-1992 and the workman was provided the work of mud pallet maker at Saoner Mine by order dated 6-11-1992 for 30 days and thereafter, he was again transferred to Pipla Mine at his original post of loader by order dated 9-12-1992 and the workman was orally assured of providing light job, but as no light job was provided, the workman went on hunger strike on 15-3-1993 and Police registered a complaint against him and admitted him in Maya Hospital, Nagpur and the workman had never received the notice of the departmental

enquiry conducted against him and such enquiry was conducted behind his back and prior of his dismissal, no show cause notice was issued and copy to the enquiry report was not supplied and for that the enquiry was bad in law and the order of dismissal dated 24-1-1994 was also not served on the workman, but the same was published in the news paper, "Hitvada" and the workman came to know about the same from police agency and therefore, the punishment of dismissal is arbitrary and disproportionate and the same is liable to be set aside and the workman is to be reinstated in service with continuity and full back wages.

6. In reply, it was submitted by the learned advocate for the party no. 1 that the preliminary issue regarding the validity of the departmental enquiry has already been answered in favour of party no. 1 and the workman remained absent continuously without application or sanctioned leave and the workman was a habitual absentee and he was also quite disobedient and did not show any interest in his work and serious misconduct has been proved against him in a properly conducted departmental enquiry and the Tribunal cannot sit in appeal against the order of disciplinary and appellate authority and the punishment of dismissal from services imposed against the workman is not disproportionate to the serious misconduct committed by the workman. In support of such contentions, reliance has been placed by the learned advocate for the party no. 1 on the decisions reported in AIR 1998 SC-300 (Union of India vs. B.K. Srivastava), 1995 LAB IC-311 (Govt. of Tamilnadu Vs. A. Rajapandian), (1997) 4 SCC-250 (Managing Committee of MM Degree College Vs. Vice Chancellor, Meerut University), AIR 2004 SC-4161 (Delhi Transport Corporation Vs. Sardar Singh) and 1995 1 LJI-1065 (A.M. Eashwarachar Vs. Executive Engineer).

7. In the statement of claim, the workman has not pleaded a single word about holding of departmental enquiry against him. He has also not challenged the findings of the enquiry officer or the proportionality of the punishment. It is clear from the evidence on record that in spite of sufficient notice, the workman did not appear in the departmental enquiry. On perusal of the documents, it is found that the findings of the enquiry officer are based on the evidence adduced in the enquiry and not on any extraneous material. The findings of the enquiry officer are not perverse. Serious misconduct of unauthorized absence has been proved against the workman in a properly conducted departmental enquiry. Applying the principles enunciated by the Hon'ble Courts in the decisions cited by the learned advocate for the party no. 1 to the present case at hand, it is found that the punishment imposed against the workman is not shockingly disproportionate and there is no scope to interfere with the punishment. Hence, it is ordered :—

ORDER

The action of the management of Western Coalfields Ltd., Nagpur Area in dismissing Sh. Gangadhar Balmukund Gajbhiye, T.R. General Mazdoor Category-I from services w.e.f. 24-1-1994 is legal & justified. The workman is not entitled to any relief.

J.P. CHAND, Presiding Officer

नई दिल्ली, 27 अप्रैल, 2012

का.आ. 1726.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 54/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-4-2012 को प्राप्त हुआ था।

[सं. एल-22012/588/1994-आईआर(सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 27th April, 2012

S.O. 1726.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 54/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 27-4-2012.

[No. L-22012/588/1994-IR (C-II)]

D. S. S. SRINIVASARAO, Desk Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/54/2002

Date: 1-11-2011

Party No. 1 : The Sub Area Manager,
Western Coalfields Ltd.,
Sillewara, Distt. Nagpur (MS).

Versus

Party No. 2 : The General Secretary,
Samyukta Khadan Mazdoor Sangh,
Walni Mines, Distt. Nagpur (MS).

AWARD

(Dated : 1st November, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in

short), the Central Government had referred the industrial dispute to CGIT, Jabalpur between the employers, in relation to the management of Western Coalfields Ltd. Sillewara and their workman Shri Namdeo Keshevrao Suryawanshi for adjudication, as per letter No. L-22012/588/94-IR(C-II) dated 25-05-1995, with the following schedule:-

"Whether the action of the W.C.Ltd. management, Sillewara, Distt. Nagpur in terminating the services of Shri Namdeo Keshevrao Suryawanshi from 07-08-1986 is legal, proper and justified? If not, what relief is entitled to?"

Subsequently the reference was transferred to this Tribunal, for disposal according to law.

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the union, "Samyukta Khadan Mazdoor Sangh" ("the Union" in short) filed the statement of claim on behalf of the workman and the management of W.C.L. ("party no. 1" in short) filed the written statement.

The case of the workman as projected by the union in the statement of claim is that the workman came to be appointed as a general mazdoor in the underground colliery of Sillewara in 1981 and he worked regularly for about six years and on 7-8-1986 as he suffered from mental illness, he went to Mental Hospital, Nagpur for treatment and intimated about such illness to the Party No. 1, by sending the sick certificate, under certificate of posting on 7-8-1986 itself and on 5-2-1993, the workman was declared fit to resume duty by the Medical Superintendent, so he went to the colliery to join duty, but he was not allowed to join and inspite of his repeated visits for five months, as management did not take any action, the workman approached the union to take up his cause and when the union took up the matter with the management of Party No. 1, management found commission of illegality with the workman, as there was no document relating to his termination from services and there was also no document to show that from which date or year he was terminated from services, so Party No. 1 sent a note sheet to the higher authority suggesting for a settlement with the workman, on the ground that the workman could go in his favour, but the higher authority did not agree for the same and according to the standing orders of WCL, in case of remaining unauthorized absent for ten days, warning letter or charge sheet is required to be submitted against the delinquent employee, but in the case of the workman, no correspondence was made with the workman in person or in his home address and removal of the name of the workman from the roll of the management, without any enquiry amounts to unfair labour practice, in violation of the provisions of the standing orders of the management.

Prayer has been made by the union for reinstatement of the workman in service w.e.f. 2-7-1993 with full back wages.

3. The Party No.1 in its written statement has pleaded inter-alia that the workman was appointed as casual general time rated mazdoor w.e.f. 10-3-1981 and the workman was a regular absentee since the beginning and he worked for 177, 158, 148, 106, 246 and 104 days in 1981, 1982, 1983, 1984, 1985 and 1986 respectively and in 1986, the workman suddenly disappeared and remained absent from duty unauthorisedly without intimation, permission and sanctioned leave continuously and after a lapse of seven years, on 2-7-1993, the workman approached the management for employment and for the period from 5-8-1986 to 2-7-1993, the whereabouts of the workman was not known to the management and during the said period, neither he intimated the management about his whereabouts nor he applied for leave nor he reported sick to the colliery hospital and under the standing orders, the workman, who desires to obtain leave of absence, shall apply in writing to the competent authority, not less than 15 days before the commencement of leave, except where leave is required in unforeseen circumstances and the competent authority shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof orders shall be given on the same day and if the leave is refused or postponed, the fact of such refusal or postponement and the reasons there for shall be recorded in writing in a register to be maintained for the purpose and if the workman so desires, a copy of the entry in the register shall be supplied to him and if the workman after proceeding on leave desires an extension thereof, he shall apply to the competent authority, who shall send a written reply either granting or refusing extension of leave to the workman and sanction/ refusal of leave shall be communicated to the workman in writing. It is also pleaded by the Party No.1 that under the provisions of the standing orders if an employee remains absent for more than 10 days continuously, his name will be struck off from the rolls of the company automatically and the workman was a casual general mazdoor and he was not a permanent employee and during his casual employment, he disappeared from 07-08-1986 and his whereabouts were not known to the management, hence under the provisions of the standing orders, his name was automatically struck off from the roll of the company and owing to the said circumstances, its action in terminating the services of the workman by striking off his name from the roll of the company is legal, proper and justified.

It is also pleaded by the Party No. 1 that the workman has alleged that he was sick during the period of his absence, but he did not report sick to the colliery hospital

during the entire period, even though, the management of coal industry has provided all sorts of medical facilities to their employees free of cost and serious cases are referred to specialized hospitals situated at metropolitan cities as and when required and in such cases, the entire expenditure is borne by the management and if an employee falls sick, he has to report to the colliery hospital, who issues sick certificate and based on such sick certificate, sick leave is granted to the employee and the workman did not report to the colliery hospital during the period of absence and he did not send any sick certificate to the management by post, so it cannot be said that he was absent due to sickness and the workman has taken shelter of sickness the gross to overcome misconduct committed by him and such averments are nothing but after thought and as the workman remained absent continuously for more than 10 days, his name was automatically struck off from the roll of the company and any correspondence or observation made within the administration does not attain finality, unless final order is passed by the management and as such, the workman is not entitled for any relief.

4. In the rejoinder, it has been mentioned by the union, on behalf of the workman that as the workman was a casual mazdoor, he was not being provided work every day and for that his attendance was less than the regular employee and as such, the allegation of the Party No. 1 that the workman was a regular absentee from the beginning of the service is not true and the claim of the Party No.1 that as per the provisions of the standing orders, the name of the employee is automatically struck off in case of remaining absent continuously for more than 10 days is baseless and as such Party No. 1 has not been able to mention the clause or section of such provision and mentioning about section 26.24 and 26.30 of the standing orders is only to mislead the Tribunal in the matter and there is no provision in the standing orders about automatic striking off the name of an employee for remaining absent for more than 10 days and even though Party No.1 should have made the workman permanent after one year of service, Party No. 1 did not do so and thereby, is indirectly responsible for the condition of the workman and the action of the management is illegal.

5. Besides placing reliance on documentary evidence, both the parties have adduced oral evidence in support of their respective claims and the workman and one Ram Kripal Saxena have been examined as witness by the union, whereas, one Chandra Sekhar Singh has been examined as a witness by the Party No. 1.

I think it necessary to mention here that as most of the facts are not disputed except the date of the workman approaching the management to allow him to join duties and as the only point for consideration is whether there is any provision in the standing orders regarding

automatically striking off the name of an employee from the roll for remaining absent for more than 10 days continuously, there is no necessity to discuss the oral evidence adduced by the parties, which is reiteration of the facts mentioned in the statement of claim and written statement respectively.

6. It is not disputed by the parties that the workman was appointed as a casual general mazdoor on 10-3-1981. According to the workman he remained absent from 7-8-1986 to 4-2-1993 for mental illness and on 5-2-1993 after he was declared fit to join duty, he approached the management to join duty but he was not allowed to join. According to Party No. 1, the workman remained absent from 5-8-1986 to 2-7-1993.

Management has mentioned about the days of duty performed by the workman in 1981, 1982, 1983, 1984, 1985 and 1986 and has pleaded that from the date of his initial appointment, the workman was a regular absentee. However, such facts need no consideration, as the same is no way necessary to adjudicate the reference.

The main contention raised by the Party No. 1 is regarding automatic striking off the name from the roll for remaining absent for more than 10 days. Though, the Party No. 1 has taken such a plea in the written statement, the clause, section or Para of such provisions in the standing orders or any other Acts or Rules applicable to WCL has not been mentioned. Party No. 1 has mentioned about the procedure to take leave. Sub-sections 26.24 and 26.30 of Section 26 of the standing orders are regarding the acts of misconduct. The said provisions do not relate to striking off the name from the roll. After going through the standing orders of WCL, it is found that there is no provision in the same to strike off the name of an employee, for remaining unauthorized absent for more than 10 days continuously, though such an act constitutes misconduct and for imposition of punishment for such misconduct, taking necessary action including initiation of departmental proceeding is necessary.

In the case of the workman, for his remaining absent, Party No. 1 did not take any action. Even a formal order in regard to his absence was not passed. Not a single document has been filed by the Party No. 1 to show that Party No. 1 had taken any action in the matter. In absence of any action taken against the workman for remaining absent, the action of the Party No. 1 in not allowing him to join his duties is unjust and illegal.

From the documentary and oral evidence on record, it is found that the workman was mentally ill during the period of his absence and he was under treatment of the doctor and after he was declared fit, he approached the management to join duty.

In view of the materials on record and the discussions made above, it is found that the workman is entitled to join service with effect from 02-07-1993 with full back wages and all consequential benefits. Hence, it is ordered:-

ORDER

The workman be allowed to join service w.e.f. 2-7-1993 with full back wages and all consequential benefits. The management of WCL is directed to give effect to the award within a month from the date of publication of the award in the official gazette.

The reference is disposed of accordingly.

J. P. CHAND, Presiding Officer

नई दिल्ली, 27 अप्रैल, 2012

का.आ. 1727.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या [सीजीआईटीए/936/2004 नया (आईटीसीसं. 12/1989 पुराना)] को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.4.2012 को प्राप्त हुआ था।

[सं. एल-12012/233/1990 आई आर (बी-00)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 27th April, 2012

S.O. 1727.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [Ref. No. CGITA/936/2004 New (ITC No. 12/1989 Old)] of the Central Government Industrial Tribunal/Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 12-4-2012.

[No. L-12012/233/1990-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Binay Kumar Sinha,

Presiding Officer,

CGIT-cum-Labour Court,

Ahmedabad, Dated 23rd March, 2012

Reference: CGITA of 936 of 2004 New

Reference : ITC 12/1989 (Old)

Regional Manager,

Bank of India, Para Bazar,

P.B. No. 10, Rajkot-360 001.

...First Party

And their workman

Shri Dhansukh Pari R. Goswami,

Surgapara, Morbi Chowk.

Vadia, Distt.-Amreli-364480.

...Second Party

For the first party Shri Durgesh R. Chowdhary, Advocate

For the second party Shri Parag M. Vora, Advocate.

AWARD

The Appropriate Government/Ministry of Labour by its order No. L-12012/233/90-IR-B(II) New Delhi, dated 26-12-1990 referred the dispute for adjudication by the Industrial Tribunal, Rajkot in exercise of power conferred by clause (d) of sub section 1 and sub-section (1 A) of Section 10 of the I.D. Act, 1947 by formulating the terms of reference under the schedule as follows.

SCHEDULE

"Whether the action of the management of Bank of India in terminating the services of Shri Dhansukh Pari R. Goswami, Badli Sepoy is justified? If not to what relief the workman is entitled?"

(2) On registering of the reference case the notices were sent to the parties for filing their respective pleadings—statement of claim by the second party workman and written statement by the first party management. Both the parties appeared and filed their respective pleadings. The workman side filed his statement of claim at Ext. 2 and the management side filed its written statement at Ext. 5.

(3) The case of the workman as per statement of claim is that he was working as Badli Sepoy since April-1985 at Vadiya Branch of the Bank of India in the district of Amreli. He was removed from the services illegally from 1-7-1989. He worked continuously in the Bank and his signature was taken on the vouchers of payment of his wages. He was not served with retrenchment notice or notice pay as per provision of the I.D. Act. Further case is that there was circular for appointment of Sepoy on regular post. He also applied for the post but he was not absorbed rather another person was absorbed in his place. Further case is that he continued to work as Badli Sepoy and management was also taking his work of a peon and his signature were taken on muster roll. He completed 240 days in calendar year and his time of duty was 10.30 A.M to 6.00 P.M. Further case is that he was working from before but another person was recruited to the post of Sepoy and he was not called for interview though applied for the post and so the management of first party has also violated the provision of Section 25 (G) of I.D. Act. On these grounds relief has been sought for his reinstatement and back wages and cost of Rs. 1,000.

(4) The first party (Employer) as per its written statement pleaded inter-alia that the reference is not legal and tenable and the workman has got no valid cause of action, there had been no breach of legal rights of the workman. So, the reference is not maintainable. It has been denied that the workman was serving Vadia Branch of Bank within Amreli district from April-1985. It has been denied that his services were terminated from 1-7-1989. These allegations are to be proved by the workman. It has also been denied that the service of the workman was terminated and new person has been employed in his place.

It has also been denied that the first party had made the breach of violation of any settlement or circular. It has been denied that the workman has continuously worked whole the year before his so called termination from April-1985 to June-1989. It is the case of the first party that as per banks guidelines for filling budli persons the interview was held to get budli panel for Vadia Branch but the panel was not approved by appropriate authority. The workman D.R. Goswami was interviewed for the post of Badli Sepoy which was a leave vacancy post and so the concerned workman was required to work whenever subordinate staff sepoy was away from his work either on duty or otherwise and if management deemed it necessary to call such budli sepoy for that short period which can be even for less than one day. Further case is that Badli Sepoy are required to work in such stop gap vacancy even for less than one day, and they have no legal right for getting regular or daily employment. In absence of permanent person, Mr. Goswami was to be considered which was purely a stop gap arrangement. Further case is that as per government policy, the SC/ST candidates are required to be absorbed/appointed to fill-up quota of the SC/ST and accordingly Shri Padhiar, who is posted at Vadia Branch was on approved panel and he belongs to "SC" category and so his name was considered, with a view to fulfill the backlog of SC/ST candidates as per Government directives. On these scores it has been prayed that there is no claim of the workman and so this reference is fit to be rejected.

(5) In view of the pleadings of the parties following issues are taken up for consideration and determination.

ISSUES

- (I) Whether the reference is maintainable?
- (II) Has the workman got valid cause of action?
- (III) Whether the workman has completed 240 days of work in calendar years?
- (IV) Whether the second party workman is entitled to relief for his reinstatement and back wages with consequential reliefs?
- (V) Whether the action of the management Bank of India (first party) in terminating the services of the workman Shri Dhansukh Pari R. Goswami is justified?
- (VI) What orders are required to be passed in this case?

FINDINGS**(6) ISSUE No. III and IV**

Both sides have adduced oral and documentary evidence in support of respective cases. The workman examined himself at Ext. 19 in support of his case and another witness namely Gajendra Giri has also been examined on behalf of the workman who is brother of the workman. It has been stated in the evidence on the side of the workman that the workman has worked altogether 385 days right from his engagement as Badli Sepoy till before

his removal. Also reiterating of such claim that the bank fail to serve retrenchment notice or notice pay to him and violated the provision of ill Act and so, the workman is entitled for his reinstatement with other reliefs. The workman witnesses were cross-examined. It has been admitted by the workman that no appointment letter was issued to him, he also admitted that he was not called for interview though applied for the post of sepyo fallen vacant in Vadia branch. At Ext. 33 there is oral evidence of the workman's brother Mahendra Giri supporting that all along in the year workman Shri Dhansukh Pari R. Goswami was performing the duties of Badli Sepoy in the bank.

(7) On the other hand management witness Ramesh Chandra was examined at Ext. 39 denying the claim of the workman. He stated that whenever the permanent worker of the Bank of Vadia Branch remained absent or proceeded on leave then for that period the workman Shri Dhansukh Pari R Goswami was called for the work as Badli Sepoy and that in that capacity the workman was performing the work for limited period in a month and not completed 240 days of work in any calendar year. On behalf of the bank the panel of Badli Sepoy at Amereli, Vadia Branch which is dated 29-March, 1989 has been filed showing the name of two persons namely D.I. Kazi and Shri K.K. Katara as Badlee Sepoy for Amereli Branch. Whereas Shri L.R. Makwana has been shown Badlee Sepoy for Vadia branch having with schedule cast category. There is no name of the concern workman Shri Dhansukh Pari R. Goswami to show his empanelment as Badli Sepoy for Vadia Branch. On the other hand the second party workman could not have been able to show any document that he had also been empaneled as Badlee Sepoy for Vadia branch of the Bank of India. Even the workman could not have been able to prove that he was working at Vadia Branch in the year 1985 from April. On the other hand the aforesaid copy of penal of Badli Sepoy was prepared by order dated 25-3-1985 i.e. prior to the claim of engagement of the workman from April-1985. From the panel list it is clear that only schedule cast candidate Mr. Makwana was under list of Badli Sepoy belonging to Badli Sepoy category.

(8) It has been argued by Shri Parag M. Vora learned advocate for the second party that demand was made from the first party Bank for production of the document as per pursis but all the documents have not been produced by the Bank and the demand was also made for production of muster roll which was not produced by the Bank and so adverse inference has to be drawn against he first party Bank for with holding the muster roll containing the signature of the workman. In the connection a case law has been cited reported in AIR 1968 Supreme Court 1413. On the other hand it has been argued by Shri D.K. Chaudhary learned counsel for the first party that non-production of muster roll containing signature of the workman will not go to prove the claim of the workman because he was not Badli Sepoy empane! for the Vadia

branch, Bank of India rather a schedule cast candidate had been empanel for that branch and on leave or absence of the said Badli Sepoy the work was taken from the workman who was running an electrical shop in front of the Bank and the Bank Manager called him to work even for half day or as per requirement. It has also been argued on behalf of the first party that the Branch Manager of Bank of India can make a stop gap arrangement for casual labour work by paying him from the contingency as and when the permanent class four servant is on leave, without calling names from the employment and without conducting the interview and that on stop gap arrangement the workman Dhansukh was called from this electrical good shop in front of the Bank to work in place of class four employee who went on leave or not coming on duty. It has been argued that the workman was never appointed as per rules pertaining to the appointment in the Bank on permanent post. It has been further argued that the workman never worked for 240 days at Vadia branch in span of 12 calendar month immediately preceding the date of his so called termination. It has been further argued that as per the Government policy SC-ST candidates are required to be absorbed/appointed to fill-up quota of SC-ST and accordingly Shri Padhiyar who was posted on Vadia branch was on approved panel and he was belonging to schedule cast category and so his name was considered with view to fulfill backlog of SC-ST candidates as per Government directives. It has also been argued that employment in the Bank is governed under the Government directives which is of mandatory nature and so the workman cannot claim for his bank services by way of backdoor entry. Pointing towards the admission of the workman at Ext. 19 in para 13 that the workman has admitted that in the year 1985 he worked for 55 days and in the year 1986 he worked for 16 days and in the year 1987 he worked for 22 days and in 1988 he worked for 16 days, and in the year 1987 worked for 22 days and in 1988 Nil days and in the year 1989 169 days. From his such evidence it is obvious that the workman never completed 240 days of work in any calendar year.

(9) In view of such admitted position that the second party workman has not completed 240 days of work in any calendar year, so, the employer as per provision of Section 25 (F) of the I.D. Act was not required to sent retrenchment notice or notice pay to the workman and so the second party workman shall have no right either for his reinstatement or for claiming for compensation on ignoring the provision of Section 25 (F) of the I.D. Act by the employer (Bank).

(10) On behalf of the first party Bank reliance has been placed upon the case State of Gujarat V/s Rameshchandra Chhaganbhai Mochi 2005 (3) GLH 508-Gujarat High Court, the case of Secretary, State of Karnataka & Ors. V/s Umadevi & Ors. 2006 AIR-Supreme Court Weekly-1991. Himanshu Kumar Vidhyarthi and

others V/s. State Bank of Bihar and others 1997-FLR-Supreme Court-237, Karjan Municipality V/s. Shashikant Kamatakar Shukla 2004 (3) GLH-23, Gujarat Hosing Board V/s Meenakshiben Bhanushankar Bhatt 2005 (3) GCD-2046 (Gujarat High Court) and case of Ayurvedic Officer V/s, Jermibhai Kavabhai Vala 2005 (3) GCD 2564 (Gujarat High Court). On the other hand on behalf of the second party workman one case law have also been cited reported in AIR 968 Supreme Court 1413 on the point of drawing adverse inference but this case law is not applicable to the case of the second party workman because as per his own admission he never completed 240 days of work in any calendar year. So, if the muster roll as called for from Bank was not produced by the first party bank, no adverse inference can be drawn that if the muster rolls could have been produced by the first party, that would have proved case of the workman that he completed 240 days of work in calendar year. The case law of 1985 (4) Supreme Court cases 201 H.D. Singh V/s. Reserve Bank of India and others respondent, the case of State Bank of India V/s. Sundra Money 1976 Supreme Court (L & S) 132 are also not applicable to the case of the second party workman. Another case law cited on behalf of the second party is on the point that the employer is required to follow the principle of 'last come, first go' e.g., the junior has to be retrenched first and having not followed this principle, the Labour Court has rightly set aside the retrenchment in awarding full back-wages whereas the High Court which is reported in 2005 LLR 1209 of Gujarat High Court in the case of Mohanbhai Ramjibhai Keratra V/s Surendrangar District Panchayata also not applicable to the case of the workman because as per documentary evidence produced on behalf of the first party there was only one SC candidate empanelled for Badli Sepoy for the Vadia branch in district of Amreli and there is no name of the workman empanelled as Badli Sepoy. The second party has also filed case law reported in 2005 LLR 1211 b Batal Cooperative Sugar Mills Ltd., V/s. Sowaran Singh where in their Lordship have held that onus of proving that workman had work for 240 days in 12 calendar months preceding termination would be on workman. But the workman could not discharge such onus of proving that he worked for 240 days in calendar year. Other case laws reported in 2003 (2) GLH 215, 1999 Lab I.C. 2639 Gujarat High Court, 1985 (0) GLHEL-SC 10320 are also not applicable in the case of the second party workman.

(11) Upon discussions and consideration of the evidence of the both sides and also in view of the case law cited on behalf of the both sides as above, I find and hold that the second party workman Shri Dhansukh Pari R. Goswami has not completed 240 days in any calendar year and so duty was not cast upon the employer Bank to serve with retrenchment notice or notice pay to the second party workman on his disengagement/removal from the job of casual worker. So, second party workman is not entitled either for his reinstatement or for any compensation

from the Bank. These issues are decided against the second party workman.

(12) ISSUES NO. I & II

In view of the findings made to issues No. III and IV, the reference is not maintainable and the workman has got no valid cause of action for raising this Industrial Dispute.

(13) ISSUE No. V

Since post of Badli Sepoy at Vadia branch which was meant for SC-ST candidates filled by empanelled and SC candidates as Badli Sepoy so, there was no need for engaging the second party workman on stop gap arrangement any further and more so, the second party workman was in gainful employment as he was running an electrical repairing shop in front of the Bank and so the action of the management of Bank of India in terminating the services of the workman Shri Dhansukh Pari R. Goswami is justified. So the terms of reference as per schedule is answered in favour of the 1st party (Bank).

(14) ISSUE NO. VI

The second party workman is not entitled to get any relief so this reference is dismissed on contest. No order as to cost.

This is my award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 30 अप्रैल, 2012

का.आ. 1728.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या (सीजीआईटीए/835/2004 नया (आईटीसी सं. 08/2004 पुराना) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-4-2012 को प्राप्त हुआ था।

[सं. एल-12012/199/2003-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 30th April, 2012

S.O. 1728.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGITA/835/2004 New) (ITC No. 08/2004 Old) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 11-4-2012.

[No. L-12012/199/2003-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present

Binay Kumar Sinha, Presiding Officer,
 CGIT-cum-Labour Court, Ahmedabad,
 Dated 30-3-2012

Reference: CGITA of 835 of 2004 New

Reference: ITC. 08/2004 (Old)

The Regional Manager,
 Dena Bank,
 Shree Apartment, Nanpura,
 Surat (Gujarat)-395001.

... First Party

And their workman
 Mahendra Balubhai Kataria,
 Room No. 42,
 Rander Jimkhana Chawl,
 Rander, Surat (Gujarat).

... Second Party

For the first party management Bank Shri J.M. Patel, Advocate

Shri M.M. Chisti,
 Advocate

For the second party workman appearance of none.

AWARD

The Government of India /Ministry of Labour, New Delhi by its order No. L-12012/199/2003 (IR (B-II) dated 30-1-2004 referred the dispute for adjudication by the Industrial Tribunal Baroda formulating the terms of reference under the Schedule which is as follows.

SCHEDULE

"Whether the action of the management of Dena Bank through its officers in terminating the service of Shri Mahendra. Balubhai Katara, Peon w.e.f. 2-11-1999 vide letter dated 9-10-1995 and 11-12-1995 by way of deemed voluntary abandonment of service, is legal proper and justified? If not, to what relief the workman Shri Mahendra Balubhai Kataria is entitled to and from which date and what other direction are necessary in the matter?"

(2) Case was registered in the court of Industrial Tribunal Baroda as Reference ITC 7/2001 and the notice were issued to the parties but in spite of notices workman did not appear and did not file any statement of claim. Subsequently the record received in this court as per order of transfer of the ministry in the month of October, 2010. Thereafter fresh notices were issued to the parties. The first party appeared in this case by filing Vakalatnama in favour of the its lawyer Shri J.M. Patel and others. The second party workman did not appear. Whereas the case remained pending since long for filing statement of claim. Since the workman has raised this Industrial Dispute so it

was incumbent upon him to file statement of claim for submitting his case against the management of Dena Bank several opportunities were granted to the second party workman to file statement of claim when the case was pending in the previous court of Industrial Tribunal and also by this Court so the second party workman has seriously ignored this case as a result this case is fit to be dismissed for non-prosecution by the second party workman. It is, therefore.

ORDER

That this reference is hereby dismissed for non-prosecution by the second party workman.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 30 अप्रैल 2012

का.आ. 1729.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 62/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-2012 को प्राप्त हुआ था।

[सं. एल-12011/42/2006-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 30th April, 2012

S.O. 1729.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 62/2006) of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 14-4-2012.

[No. L-12011/42/2006-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 62 of 2006

Between—

The General Secretary,
 Bank of Baroda Staff Association,
 15/222, Madhav Bhavan,
 Civil Lines,
 Kanpur.

And

The Assistant General Manager,
Bank of Baroda,
Regional Office,
19 Way Road,
Lucknow.

218/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को
16-4-2012 को प्राप्त हुआ था।

[सं. एल-12011/73/2008-आई आर (बी-II)]

शीश राम, अनुभाग अधिकारी

New Delhi, the 30th April, 2012

AWARD

1. Central Government, Mol, New Delhi, vide notification no. L-12011/42/2006-IR(B-II) dated 7-8-06, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Bank of Baroda in terminating the services of Sri Babblu Kumar w.e.f. 31-8-2004 was justified and legal also whether change of service condition of the workman from the amalgamation of the (BSBL) in Bank of Baroda and also not paying 1/3 scale wages from 22-1-2002 to 18-3-2004 and 1/2 scale wages thereafter up to 31-8-2004 were legal and justified? If not, what relief the workman concerned are entitled to?
3. Brief facts are -
4. The claimant has filed his claim statement for setting aside the oral termination order dated 31-8-04, alleging the breach of provisions of Section 25F, 25G and 25H of the Industrial Disputes Act, 1947.
5. Opposite party has filed the written statement and has opposed the claim of the claimant.
6. After the exchange of the pleadings claimant was given several opportunities to adduce evidence in support of his pleadings but did not turn up for his evidence before the tribunal.
7. Under the aforesaid circumstances it thus appears that the claimant is not interested in prosecuting his case as a consequence of which it is held that the claimant has failed to prove his case before the tribunal.
8. The resultant effect is that the claimant is held not entitled for any relief for want of evidence and proof. Reference is therefore decided against the claimant and in favour of the opposite party.

RAM PARKASH, Presiding Officer

नई दिल्ली, 30 अप्रैल, 2012

का.आ. 1730.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या

S.O. 1730.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 218/2011) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure in the Industrial Dispute between employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 16-4-2012.

[No. L-12011/73/2008-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER
CENTRAL GOVT. INDUSTRIAL TRIBUNAL No.1,
KARKARDOMA COURTS COMPLEX, DELHI.**

I.D. No. 218/2011

Shri Kanti Rathi through
The Executive Member,
Akhil Bhartiya PNB
Workers Organisation, 898,
New Sadak, Chandni Chowk,
New Delhi-110006.

... Claimant

Versus

The Regional Manager,
Punjab National Bank,
Regional Office,
Muzaffar Nagar,
U.P.

... Management

AWARD

1. A special assistant, working in Industrial Area, Muzaffar Nagar Branch, Punjab National Bank (hereinafter referred to as the bank) was General Secretary, Bhartiya Mazdoor Sangh (in short as the Sangh) in the year 2005. In the capacity of General Secretary of the Sangh he wrote letters to Chairman, Muzaffar Nagar Kshetriya Gramin Bank (for convenience referred to as the Gramin Bank) calling upon him to sit on a table to negotiate problems of the employees of the Gramin Bank. He claimed that Muzaffar Nagar Kshetriya Gramin Bank Adhikari Sangthan (referred to as the Union in subsequent sections) was affiliated to the Sangh. In those circumstances, the Union has requested the Sangh to intervene since the Chairman, Gramin Bank, was indifferent qua their problems. He wrote letters to the Chairman, Gramin Bank, intimating him that a demonstration would be held outside the Head Office of the Gramin Bank on 19-3-2005, in the event of failure of the

latter to respond to the call made by the Sangh. This letter also went unheeded. Resultantly a demonstration was held in the Head Office premises of the Gramin Bank on 19-3-2005. Demonstration went unruly. Riotous, disorderly and indecent behaviour was projected by the special assistant, on the face of the Chairman of the Gramin Bank.

2. The Bank served a charge-sheet on the said special assistant, namely, Shri Kanti Rathi. His reply to the charge-sheet was found to be unsatisfactory. A departmental enquiry was constituted. On conclusion of the enquiry, the Enquiry Officer submitted his report to the Disciplinary Authority. Notice was served on Shri Kanti Rathi by the Disciplinary Authority calling upon him to show cause as to why punishment of removal from service with superannuation benefits may not be awarded to him. Shri Rathi made his submissions, vide letter dated 12-3-2007. On consideration of the report of the Enquiry Officer and submissions made by Shri Kanti Rathi, punishment of bringing him down to two lower stages in the scale pay was awarded to him by the Disciplinary Authority, vide order dated 10-1-2008. Appeal preferred by Shri Kanti Rathi came to be dismissed on 12-4-2008.

3. Aggrieved by the order of the Disciplinary Authority as well as the Appellate Authority, he approached the Sangh who in turn raised an industrial dispute before the Conciliation Officer. Since the conciliation proceedings failed, the appropriate Government referred the dispute to Central Government Industrial Tribunal-II, New Delhi, vide order No. L-12011/73/2008/IR (B-II), New Delhi, dated 17-9-2008 with following terms:

“Whether the action of management of Punjab National Bank in taking disciplinary action against Shri Kanti Rathi, Special Assistant, Industrial Area Branch, Muzaffar Nagar for some alleged charges of misconduct *vide* charge-sheet dated 18-6-2005 which does not attract any act in consistent with the fulfillment of express or implied condition of employment with the bank and also not connected with the contentment or comfort of other employees employed in the bank is legal and justified? What relief the concerned employee is entitled to?”

4. Shri Kanti Rathi filed his claim statement pleading that he is an activist of the trade union movement and as such has a right to form, join, work or assist a trade union of his choice. He holds various positions in trade unions of bank employees. He is the State Secretary, Punjab National Bank Workers Organization and the Secretary of the Sangh, to which Sangh various other unions are affiliated. The banking industry is one of those exceptional industries where workers participation in the management have been implemented. He projects that as the Secretary of the Sangh he received complaints against Chairman, Gramin Bank, who refused to discuss grievances of their

members. Letters were written to the Chairman, Gramin Bank, calling upon him to negotiate problems of their employees and to make peaceful and cordial atmosphere at their work place. Chairman, Gramin Bank, did not respond to the letters and reminders sent to him. He was served with a notice for demonstration in front of the Head Office premises of the Gramin Bank. Chairman, Gramin Bank, did not respond to the notice of demonstration, served upon him. Consequently, a demonstration was held in the premises of the Gramin Bank on 19-3-2005.

5. Shri Rathi projects that during the demonstration no new slogan was raised, except those which are raised by the unions under such circumstances all over the world. The demonstration was peaceful. However, the workers participating in the demonstration, were insisting to have a dialogue with the Chairman. Instead of inviting workmen to have a dialogue, the Chairman called the police in the bank premises, projecting that outsiders have entered the bank premises with bad intention. Police reached there and with the intervention of the police, they had a dialogue with the Chairman.

6. The claimant went on to detail that on 28-3-2005, the Chairman, Gramin Bank lodged a complaint against him with the management of the bank. He levelled allegations against him in that complaint. Relying the copy of that complaint, the claimant projects that misconduct detailed in the standing order or under the service regulations have a connection with the place of work as well as the time when it was committed. He asserts that the employer has no extra-territorial jurisdiction to regulate behaviour of his employees, outside the premises of the establishment or after working hours. The bank was unable to control and regulate activities of the claimant outside its premises. He asserts that the bank and the Gramin Bank are two different and distinct establishments and Head Office of the Gramin Bank cannot be called the premises of the bank, under any circumstances. According to him phrases “on the premises of the bank”, “property of the bank or any of its customers” and “prejudicial to the interest of the bank” used in clauses 5(c), 5(d), and 5(j) of Bipartite Settlement dated 10-4-2002 control and regulate the activities of employees within the premises of the employer, during their duty hours and have no nexus or connection with the acts committed outside the premises of the bank after the close of the business hours. He presents that allegations levelled in complaint dated 28-3-2005 nowhere constitute any of the misconduct in term of aforesaid clauses of Bipartite Settlement dated 10-4-2002. His thrust of contention has been that since no misconduct was committed by him, the enquiry conducted by the bank was illegal and unjustified and punishment awarded to him, relating to the charges levelled in the charge-sheet dated 18-6-2005, may be discarded and he may be held to be entitled to have his pay as it was prior to the punishment, with all consequential benefits, assuming that no punishment was awarded to him.

7. Demurral was made by the bank pleading that no industrial dispute was raised, since the instant dispute was not validly espoused by the Union. The dispute raised does not partake character of an industrial dispute. Chairman, Gramin Bank, lodged a complaint dated 28-3-2005 against Shri Rathi. The Chairman, Gramin Bank, was scale IV officer of the bank who was deputed in the Gramin Bank, which was sponsored by the bank. In the complaint, allegations were levelled that on 19-3-2005 at about 2.10 P.M., Shri Rathi along with 8-10 persons went to the Head Office of the Gramin Bank and raised indecent and objectionable slogans against the management of the Gramin Bank. He used undignified and uncivilized language and even physically assaulted the Chairman, Gramin Bank. On the said complaint, matter was got investigated and thereafter Disciplinary Authority initiated action against Shri Rathi. Charge-sheet dated 18-6-2005 was served upon him. His reply was not found to be satisfactory. Departmental enquiry was initiated vide order dated 15-12-2005. After conclusion of the enquiry, the Enquiry Officer submitted his report to the Disciplinary Authority on 30-1-2007. Copy of the report was sent to Shri Rathi, who submitted his comments on that report. Notice of proposed punishment of removal from service was sent to Shri Rathi and after giving him personal hearing punishment of bringing him down to two lower stages in scale of pay was awarded to him, vide order dated 10-1-2005. Appeal preferred by Shri Rathi was rejected, vide order dated 12-4-2008.

8. The bank projects that Gramin Bank was sponsored by it and Chairman, Gramin Bank, a scale IV officer of the bank, was deputed there in that capacity by the bank. It is wrong to allege that the bank was attempting to control and regulate activities of its employee outside the premises of the bank. Conduct of Shri Rathi has a nexus and bearing on his relationship with the bank and comes within the ambit of the Rules and Regulations governing him, which renders him liable for action. Punishment awarded to him is too considerate and cannot be termed as disproportionate to misconduct. It has been projected that the enquiry conducted was in consonance with the principles of natural justice and Shri Rathi was given fair opportunity of being heard. His claim that he has not committed any misconduct is unfounded. His claim may be discarded and an award may be passed against the claimant, pleads the bank.

9. In rejoinder claimant reiterate facts pleaded by him in the claim statement. Besides issues forwarded by the appropriate Government for adjudication, an additional issue was settled by the Central Government Industrial Tribunal-II, New Delhi, which is as follows :—

ADDL. ISSUE:

11. "Whether the departmental enquiry conducted in the case was legal, just and fair and was not in violation of the principles of natural justice? Further, what directions

are called for in this case?

12. Vide order No.Z-2201916/2207-IR(C-II), New Delhi dated 30-3-2011 the appropriate Government transferred the case to this Tribunal for adjudication.

13. Shri Sanjay Sud was examined by the bank to discharge onus relating to the virus of enquiry. The claimant entered the witness box to rebut facts projected by Shri Sud.

14. On consideration of facts unfolded by Shri Sud as well as the claimant and appreciation of submissions advanced by the parties the additional issue was answered in favour of the claimant and against the bank, vide order dated 6-9-2011.

15. Considering the application made by the bank, vide order dated 3-10-2011 the bank was permitted to adduce evidence to prove misconduct of the claimant.

16. Shri B.B. Vohra and Shri Shiv Raj Singh entered the witness box to unfold events relating to the misconduct allegedly committed by the claimant. Shri Kanti Rathi entered the witness box to rebut facts. He had examined one Shri Chanan Singh also. No other witness was examined by the parties.

17. Arguments were heard at the bar. Shri Rajat Arora, authorized representative, advanced arguments on behalf of the bank. Shri Satish Kumar Chhabra, authorized representative, presented facts on behalf of the claimant. I have given my careful consideration to the arguments advanced at the bar and cautiously perused the record.

My findings on the issues involved in the controversy are as follows :—

18. In his affidavit Ex.MW2/1, tendered as evidence, Shri B.B. Vohra swears that he was working as Chairman, Gramin Bank, on 19-3-2005. He was deputed to work as Chairman, Gramin Bank, in January, 2002. The Gramin Bank is Regional Rural Bank sponsored by the bank. The Chairman & Managing Director, Gramin Bank, is sent from the bank. Balance sheet of the Gramin Bank is also reflected in the balance sheet of the bank. On 19-3-2005 he was present in his office and discharging official duties as usual. At about 2.10 P.M. he heard some loud noises coming from the ground floor. His office was located on the first floor of premises No.158, Civil Lines, South Muzaffar Nagar. It seemed that some people were indulging in slogan shouting and creating disorder in the premises of the Gramin Bank. Immediately thereafter Shri Shiv Raj Singh and Shri Rup Raj, General Manager and Manager respectively came to his cabin. They informed that about 8-10 persons, who had been shouting slogans outside the premises of the Gramin Bank, have forcefully entered into the bank premises and were raising un-parliamentary slogans inside the premises of the Gramin Bank. They were disturbing normal working and using derogatory language. He was informed that Kanti Rathi, special assistant at Industrial Area Branch, Muzaffar Nagar of the

bank was leading the mob. Shri Rathi was District Secretary of the Sangh, Joint Secretary of All India Punjab National Bank Workers Organization and General Secretary of the Punjab National Bank Workers Organization. Shri Vohra asserts that un-parliamentary slogans were audible. Some of those slogans he re-produces "*Vohra Mar Gaya Hai Hai*", "*Vohra Murdabad*", "*Vohra Ki Aisi Ki Taisti*", "*Bhartiya Mazdoor Sangh Zindabad*".

19. Shri Shivraj Singh, Shri Roop Raj Kishore, Shri Sudhir Kumar and Shri Sat Pal, staff members of the Gramin Bank tried to stop them. However, Kanti Rathi and others forcibly entered his cabin and threatened him as under :—

"Hamen Tumse Baat Karni Hai, Chup Chaap Bathe Raho Aur Hamara Baton Ka Jawab Do, Nahin to Tumhare Liye Achha Nahin Hoga".

As the claimant entered his cabin he asked him not to trespass and leave immediately. However, the claimant very roughly uttered, "*Lala Yeh Bank Tere Baap Ka Nahin Hai, Bula Sakta Hai To Bula Police Ko*". He protested and asked the claimant not to be discourteous, upon which the claimant became very violent and moved towards him uttering, "*Yeh Tere Baap Ka Bank Nahin Hai, Tu Police Ko Bula, Tumhen Cheer Phar Kar Rakh Denge*".

20 The above incident happened in front of the other staff members who were present in the cabin. Shri Kanti Rathi picked up receiver of telephone and banged it loudly uttering, "*Yeh Tere Baap Ka Bank Nahin Hai, Tu Bula Police Ko, Tumhain Cheer Phaar Kar Rakh Denge. Chairman Ke Bachhe Hum Tumhain Cheer Phar Kar Rakh Denge*". Thereafter he caught hold of his hand with a view to assault him physically, while uttering, "*Main Tumhain Ungli Dikha Raha Hoon, Teri Aankh Main To Nahin De Raha Hoon, Lala Yeh Bank Tere Baap Ka To Nahin Hai. Bula Sakta Hai To Bula Police Ko*". Since other staff members were present in his cabin, hence Shri Rathi could not succeed in hurting him physically. He requested him to keep some distance. Shri Rathi abused him using derogative language, "*Tumhain Cheer Phaar Kar Rakh Denge. Hum To Sadak Chaap Log Hain, Isi Taraha Baat Karange*".

21. Apprehending untoward incident, police was informed on telephone. One Inspector and two Head Constables came there. Inspector took stock of the situation and cautioned Shri Rathi not to create any scene. Two guards of the Gramin Bank also came inside his cabin and stood to guard him. Shri Rathi introduced his associates as Shri Vinay Maan Singh, Shri Ajay Singh, Shri Sudhir Singh, Shri Charan Singh, Shri Ravinder Kumar, Shri B.D. Tyagi and Shri Rajinder Singh. Thereafter Shri Rathi raised an issue on departmental enquiry relating to Shri Shiv Kumar. On explanation of some points, he felt satisfied. Shri Rathi wanted him to give in writing for future meeting with the members of the Sangh. He told him that meeting time can be arranged on telephone. He informed Shri Rathi that his allegations relating to harassment of

Shri Sanjiv Kumar and Shri K.D. Maheshwari, by the authorities of the Gramin Bank, were baseless. Around 2.35 P.M. Shri Rathi left his cabin. He gave report of the incident to the authorities on 27-4-2005, which is Ex.MW2/1. Incident was reported to the police, copy of which report is Ex.MW2/2. During the course of his cross-examination, he concedes that letter Ex.MW2/W1 was sent to him and in that letter Union sought time to meet him but he had not given any time to them. He explained that he has not given any time since the Union was not a recognized union. He further concedes that letter Ex.MW2/W3 was written to him by Shri Rathi. He admits that office premises of the Gramin Bank cannot be called office of the bank. According to him, he gave detail of the incident to the bank on telephone on the date of incident itself. He forwarded his report Ex.MW2/W1 to the bank. He talked to Shri Rathi in the presence of the police. Staff of the Gramin Bank tried to stop Shri Rathi and his associates outside his cabin but could not succeed. Members of his staff told him that Shri Rathi and his associates pushed them and entered his cabin. Tone and tenor of Shri Rathi was scolding and coercive. When Shri Rathi caught hold of his hands, Shri Raj Singh rescued him. Though Shri Rathi and his associates uttered that they had come to have a dialogue, but their behaviour was aggressive and terrorizing. He felt convenient in presence of the police. Police scolded Shri Rathi and his associates.

22. Shri Shiv Raj Singh swears in his affidavit Ex.MW3/A, tendered as evidence, that he was working as Manager, Gramin Bank, on 19-3-2005. He details facts, which are identical to the facts unfolded by Shri Vohra in his affidavit Ex. MW-2/A. During the course of his cross-examination, he unfolds that Shri Kanti Rathi was acquainted with him prior to the date of the incident. Delegation entered the cabin of the Chairman forcibly. He tried to stop them outside the cabin but could not succeed. As soon as Shri Rathi entered the cabin he uttered, "*Chairman Main Tere Se Boat Karna Chahata Hoon Bathe Raho*". Shri Rathi did not give any chance to the Chairman to speak. He also uttered, "*Yeh Lala Ka Bank Nahin Hai. Vohra Tere Ko Mere Se Boat Karni Hi Hogi*". While uttering these words, Shri Rathi raised his finger towards the Chairman. Shri Rathi had not disclosed his identity before the Chairman. In case he would have disclosed his identity, the Chairman might have talked to him. Delegation abused the Chairman. Indecent words, detailed by him in his affidavit, were uttered by the members of the delegation. They entered the cabin of the Chairman while raising slogans. They used indecent language after entering cabin of the Chairman. The Chairman had uttered in clear words that he was not willing to talk to them. He advised Shri Rathi to have peaceful dialogue. Thereafter Shri Rathi expressed his intention to see files relating to Shri Rajeev Kumar and Shri Maheshwari. Those files were shown to him, after arrival of the police.

23. In the affidavit Ex.WW1/B, tendered as evidence, Shri Rathi unfolds that he was working as special assistant in Industrial Area Branch, Muzaffar Nagar. He was District Secretary of the Sangh, State General Secretary, All India PNB Workers Organization and All India Joint Secretary of PNB Workers Organization. To resolve industrial and labour matters he used to make correspondence and negotiations with the management of various industries. He approached the management of the Gramin Bank to resolve problems of their workers, working in the said bank. Communications dated 30-1-2005; 19-2-2005 and 1-3-2005 were made with the authorities of the Gramin Bank. When grievances were not redressed, the Sangh requested the Chairman, Gramin Bank, to give time for dialogue but the Chairman did not respond. He went to the Chairman along with a delegation. The Chairman arrogantly refused to meet them and asked them to leave the premises. Despite his arrogant behaviour, he repeatedly requested to resolve the matter amicably. He did not hear anything favourable. On the other hand threats were extended and police was called. In the presence of the police also, he requested the Chairman to listen to them. The Chairman arranged for soft drinks and thanked them when they departed from there. No untoward incident occurred.

24. Shri Chanan Singh unfolds in his affidavit Ex. WW-2/ A that on 19-3-2005 he had gone to the office of Chairman, Gramin Bank, along with Shri Rathi. As soon as they entered the cabin of the Chairman and started introducing themselves, the Chairman got commanded them to leave his cabin. They sat down and decided not to go away. The Chairman scolded them and uttered that on their refusal to leave he would call the police. At the juncture he told the Chairman that he may call police. Police reached there with 5-7 minutes, Chairman uttered, "*Bare Neta Bante Ho. Aaj Tumhari Netagiri Dekhunga*". Police Inspector enquired from the Chairman as to what had happened. He told that the delegation had entered his cabin forcibly. They gave their identity before the police and at that juncture Police Inspector advised the Chairman not to call police on wrong information. At the advice of the police, the Chairman had a dialogue with them. Shri Rathi looked into the file of an employee also. Soft drink was offered to them. Chairman uttered many a times that he lost his cool and they should not mind his behaviour. During the course of his cross-examination, he presents that they had gone to the office of the Chairman to have a dialogue with him, relating to problems of 7-8 employees. When they entered the cabin of the Chairman, he asked them to leave since they had not obtained his permission in that regard. They had not obeyed his directions and occupied their seats. They told the Chairman that they were officials of the bank and union members, hence they be heard. He admits that General Manager, Gramin Bank, was also present in his cabin. When Chairman heard the name of Shri Rathi, he questioned them as to why they had reached there along with a rogue. The Chairman called the police. He

admits that he had not entered the witness box in the domestic enquiry, conducted against Shri Rathi.

25. Facts unfolded by rival parties are to be appreciated to ascertain veracity of their depositions. It is not the case of the claimant that the Chairman was inimical or having feelings of ill will to hurt him. No history of strained relations between the claimant on one hand and Shri Vohra on the other has been asserted. The claimant does not claim that on account of animosity Shri Vohra and Shri Shivraj Singh detailed facts against them. No whisper is made on his behalf that Shri Vohra and Shri Shivraj Singh were not men of veracity. Efforts were made to test their depositions as to whether they have received bribe or any other corrupt inducement of temporal gain to testify facts against the claimant. No events are detailed to suggest that Shri Vohra and Shri Shivraj Singh were decided to fix the claimant in an inconvenient situation. When closely scrutinized their depositions were found in consonance with ordinary human behaviour, natural course of events and tenets of veracity. There are no reasons to brand them unreliable witnesses.

26. When Shri Vohra faced the ordeal of cross-examination, efforts were made on behalf of the claimant to purify his testimony. However in his cross-examination no whisper was made to question his testimony on the slogans or indecent language detailed in the affidavit. The claimant opted a posture of silence on these propositions, when Shri Vohra was grilled. His testimony remained unassailed on the factum of slogans and indecent language used against him by the claimant. Unassailed facts are to be treated as not disputed. Therefore, it has emerged that the claimant does not raise even an eye-brow on indecent slogans and disorderly behaviour, which was shown by him qua this witness. Same is the case with the testimony of Shivraj Singh, who had also unfolded those slogans and indecent language used by the claimant. When events unfolded by Shri Vohra and Shri Shiv Raj Singh were assessed on acid test of ordinary human behaviour it crept over the record that their depositions are acceptable and trustworthy.

27. Presence of the claimant along with his associates in the cabin of Shri Vohra on 19-3-2005 at 2:10 pm is an undisputed fact. It is also undisputed that the claimant and his associates forcibly entered the cabin of Shri Vohra, without any prior appointment. No permission was sought by the claimant and his associates before entering the cabin of the Chairman, Gramin Bank. It is also an admitted fact that on 19-3-2005 a demonstration was held in the Head Office premises of the Gramin Bank. It is the case of the claimant that during the course of demonstration, the members were insisting to have a dialogue with the Chairman. These facts paint a picture that in order to show his upmanship, the claimant along with his associates entered the cabin of Shri Vohra. It is an admitted case of the claimant that slogans were raised in

the premises of the Gramin Bank. He nowhere unfolds as to what those slogans were. His case is that those slogans were no different than the slogans, which are raised by trade unions throughout the world. By this proposition the claimant wants to justify his language, arrogance and indecent behaviour shown by him and his associates, while raising slogans against the Chairman, Gramin Bank. In case some unions raise indecent slogans, that situation would not justify the act of the claimant and his associates. Consequently, I am constrained to conclude that the claimant raised indecent slogans in the premises of the Gramin Bank.

28. Claimant and his associates entered the cabin of the Chairman, Gramin Bank without permission. As unfolded by Shri Vohra and Shri Shiv Raj Singh, they were in an aggressive mood. When the Chairman asked their authority to enter his cabin, they lost their cool. Decency of behaviour was thrown away and they stooped low when they made indecent and annoying gestures towards the Chairman. The language used by the claimant, as detailed in the preceding sections, make it clear that behaviour of the claimant was not only rude and vulgar but it crossed all limits of decency and civilized norms. The claimant and his associates acted riotously and in disorderly manner.

29. Shri Chanan Singh Chauhan entered the witness box for the first time in December, 2011. He claims to have witnessed the incident on 19-3-2005. According to him, it was Shri Vohra who was rude and aggressive qua the claimant. He projects that the claimant and his associates had gone to the cabin of the Chairman to have a dialogue with him on certain problems faced by the employees of the Gramin Bank. As projected by this witness, Chairman lost his cool when he came to know that Shri Rathi, a trade union activist, had come to meet him. He commanded them to leave his office but they had not obliged him. He called the police. Police Inspector advised the chairman to behave. The incident, which Shri Chanan Singh narrates, is distinct and different than one unfolded by Shri Vohra and Shri Shiv Raj Singh. Admittedly the claimant had to face a domestic action. Shri Chanan Singh went in hibernation for 11 years and 9 months. He kept silence over the matter without any reasonable cause or excuse. Now he wants to unfold the events which were allegedly perceived by him long ago. During this period the claimant suffered a lot, but Shri Chanan Singh opted not to break his silence. His behaviour is abnormal and suggestive of fact that something made him to unfold facts now. Circumstances surrounding the matter suggests that a favourable node from the claimant made this witness to depose facts. All these aspects make it clear that with an oblique motive Shri Chanan Singh had divulged facts to espouse the cause of the claimant. These circumstances coupled with the conduct of Shri Chanan Singh, make me to announce that the facts unfolded by him are unworthy of credence. His deposition is, hereby, brushed aside from consideration of the facts of the present controversy.

30. The claimant wants this Tribunal to believe that he was peaceful when he entered the cabin of the Chairman along with his associates. According to him, it was the Chairman who used derogatory remarks qua him and his associates and called the police. He presents that the police gave a report which demolishes the story of Shri Vohra. He has relied upon the report of Inspector Om Bir Singh, S.O., Sohanpur, Muzaffar Nagar, U.P., which is Ex WW-1/11. When perused it emerged that Shri Omkar Singh reached the cabin of Shri Vohra and found claimant and his associates present there. When he talked to the parties, the claimant projected before him that they were requesting Shri Vohra to give them time to have a dialogue. As detailed in Ex. WW1/11 police was called on an information that vagabonds have entered the cabin of the Chairman, Gramin Bank. The police came to know about identity of Shri Rathi and his associates and felt satisfied that they were not vagabonds. In presence of police indecent and rude behaviour was not shown to Shri Vohra. This report does not discard the story projected by Shri Vohra and Shri Shivraj Singh. Untoward incident had happened prior to the point of time when inspector Om Bir Singh reached there. Consequently contents of his report will not help the claimant to seek refuge in it.

31. At the cost of repetition, it is said that the claimant and his associates were agitated, since Shri Vohra had not given any time to them to have a dialogue. During demonstration a decision was taken to have a dialogue with Shri Vohra against his will. Indecent slogans were raised and the claimant alongwith his associates barged into his cabin. He intimidated Shri Vohra by words and gestures. He went to the extent of physically assaulting him and caught hold of his hand. The claimant would have caused hurt to Shri Vohra but for intervention of Shri Shivraj Singh. These facts reduce testimony of the claimant to a negligible position. It is apparent that in a bid to come out of the troubled waters, claimant had fabricated a story. I do not find any substance in the facts narrated by the claimant, in his testimony.

32. When events unfolded by Shri Vohra and Shri Shivraj Singh are beaded in a sequence, it emerges that the claimant entered the cabin of Shri Vohra in a defiant mood. Prior to that he had raised indecent and derogatory slogans against Shri Vohra. When Shri Vohra did not yield to his pressure, the claimant used offensive language and humiliated him. All these facts are sufficient to announce that riotous, disorderly and indecent behaviour was projected by the claimant in the cabin of Shri Vohra at about 2.10 p.m. on 19-3-2005.

33. Use of riotous or disorderly or indecent behaviour on the premises of the bank has been coined as gross misconduct by clause 5(c) of Bipartite Settlement dated 10-4-2002. The claimant projects that such behaviour is alleged to have been committed at Head Office of the Gramin Bank. It is an admitted fact that the claimant is an employee

of the bank and not of the Gramin Bank. Head Office premises of the Gramin Bank is not the premises of the bank. According to the claimant, the bank had no jurisdiction to hold him accountable for riotous or disorderly or indecent behaviour committed by him on the premises of the Gramin Bank. He asserts that his acts and conduct do not amount to misconduct, hence he cannot be punished for the same.

34. The concept of misconduct is a general concept and is not related to the relationship of master and servant only. The dictionary meaning of the word "misconduct" are: "improper behaviour, intentional wrong doing or deliberate violation of a rule of standard of behaviour". Misconduct is a transgression of some established and definite rule of action, where no discretion is left except what necessity may demand; it is violation of definite law, a forbidden act and differs from carelessness. It comprises of positive acts and not mere neglect or failure. Under Indian Penal Code and other special and local laws some acts or omissions are offences for which a person can be punished by the sovereign power of the State. These offences or acts are considered to be prejudicial to the interest of the society in general and, therefore, they are prohibited by law. There are, however, various other organizations such as professional bodies, educational institutions, clubs, corporations etc. and anyone who wants to be admitted to such bodies, by being member or otherwise, is also required to act under certain rules and remain subject to certain discipline. If he does anything in violation of rules, regulations, or any law inconsistent with his position as a member of that society, then he is liable to lose the advantage and facilities of the association with that society or organization. Any such act is, therefore generally called a misconduct. Primary meaning of word "misconduct" is bad management, mis-management and malfeasance or culpable neglect of an official in regard to his office. Both in law and in ordinary parlance the term misconduct usually implies an act done willfully with a wrong intention and as applied to professional acts, even though such acts are not inherently wrongful, it means also a dereliction of or deviation from duty. Even assuming that a particular act is negligence and not misconduct, such a negligence which amounts to dereliction of or deviation from duty cannot be excused. See *In re Mahboob Alikhan* (AIR 1958 A.P. 116).

35. In *N.M. Roshan Umar Karim & Co.* (AIR 1936 Mad. 508) following three different meaning of the word "misconduct" were given:

- (a) Misconduct is not established by proving even culpable negligence. It is something opposed to accident or negligence and is doing of something which the doer knows to be wrong or which he does recklessly not caring what the result would be.
- (b) Misconduct is distinguished from accident and is not far from negligence—not only gross and

culpable negligence, and involves that a person misconducts himself when it is wrong conduct on his part, in the existing circumstances to do or to fail or omit to do a particular thing or to persist in the act, failure or omission or acting with carelessness. It is incorrect that misconduct only refers to acts of gross or culpable negligence and not mere negligence.

- (c) Misconduct does not ordinarily covers acts of negligence. The test of misconduct is not what a reasonable man would have done in the circumstances. It means that servant is guilty of something which was inconsistent with the conduct expected of him by the rules of the company".

36. Above three meanings were quoted by the Apex Court with approval in *Shiv Nath* (AIR 1965 SC 1666). Whether mere negligence is a misconduct or not will depend upon the nature of negligence and the requirement of care which the employee was obliged to use on the nature of services he was expected to perform. Misconduct could be of three kinds: (i) technical misconduct which leaves no trial of indiscipline, (ii) misconduct resulting in damage to the employer's property which might be compensated by forfeiture of gratuity or part thereof, and (iii) serious misconduct such as acts of violence against the management or other employee or riotous or disorderly behaviour in or near the place of employment, which though not directly causing damage, is conducive to grave indiscipline.

37. The expression "misconduct" has not been defined either in the Industrial Disputes Act, 1947 (in short the Act) or in the Industrial Employment (Standing Orders) Act, 1946. In *Ram Singh* (1992 Lab. I.C. 2391) the Apex Court observed that though the expression is "not capable of precise definition, its reflection receives its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of duty. It may involve moral turpitude, it must be improper or wrong behaviour, unlawful behaviour, willful in character, forbidden act, a transgression of established and definite rule of action or code of conduct but not mere error of judgment, carelessness or negligence in performance of duty, the act complained of bears forbidden quality or character. Its ambit has to be construed with reference to the subject matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose it seeks to serve". In industrial law, the word "misconduct" has acquired a specific connotation. In *Shalimar Rope Works Ltd.* (1953 L.A.C. 584) the Labour Appellate Tribunal laid down the criteria for determination as to whether an act would be misconduct, viz. the act (i) is inconsistent with the fulfilment of the express or implied conditions of service, or (ii) is directly linked with the general relationship of employer and employee, or (iii) has

a direct connection with the contentment or comfort of the men at work, or (iv) has a material bearing, on the smooth and efficient working of the concern. If the answer to any of these criteria is in affirmative, the act in question would amount to an act of misconduct. In industrial law there are two kinds of misconduct, namely, (I) gross or major misconduct which justify punishment of dismissal or discharge, and (II) minor misconduct which do not justify punishment of dismissal or discharge but may call for lesser punishment. See *Caltex India Ltd.* [1966 (2) LLJ 137].

38. Para 521.4 of the Shastri Award defines "gross misconduct" on the part of an employee as follows:

"521.4 By the expression "gross misconduct" shall be meant any of the following acts and omissions on the part of an employee;

- (a) engaging in any trade or business outside the scope of his duties except with the permission of the bank;
- (b) unauthorized disclosure of information regarding the affairs of the bank or any of its customers or any other person connected with the business of the bank which is confidential or the disclosure of which is likely to be prejudicial to the interests of the bank;
- (c) drunkenness or riotous or disorderly or indecent behaviour on the premises of the bank;
- (d) willful damage or attempt to cause damage to the property of the bank or any of its customers;
- (e) willful insubordination or disobedience of any lawful and reasonable order of the management or of a superior;
- (f) habitual doing of any act which amounts to "minor misconduct" as defined below, "habitual" meaning a course of action taken or persisted in notwithstanding that at least on three previous occasions censure or warnings have been administered or an adverse remark has been entered against him;
- (g) willful slowing down in performance of work;
- (h) gambling or betting on the premises of the bank;
- (i) speculation in stocks, shares, securities or any commodity, whether on his account or that of any other persons;
- (j) doing any act prejudicial to the interests of the bank, or gross negligence or negligence involving or likely to involve the bank in serious loss;
- (k) giving or taking a bribe or illegal gratification from a customer or an employee of the bank;

- (l) abetment or instigation of any of the acts or omissions above mentioned".

39. Definition of "gross misconduct" was modified time and again and it was lastly modified by para 5 of Bipartite Settlement dated 10-4-2002 as follows:

"(5) By the expression "gross misconduct" shall be meant any of the following acts and omissions on the part of an employee:

- (a) engaging in any trade or business outside the scope of his duties except with the written permission of the bank;
- (b) unauthorized disclosure of information regarding the affairs of the bank or any of its customers or any other person connected with the business of the bank which is confidential or the disclosure of which is likely to be prejudicial to the interests of the bank;
- (c) drunkenness or riotous or disorderly or indecent behaviour on the premises of the bank;
- (d) willful damage or attempt to cause damage to the property of the bank or any of its customers;
- (e) willful insubordination or disobedience of any lawful and reasonable order of the management or of a superior;
- (f) habitual doing of any act which amounts to "minor misconduct" as defined below. "habitual" meaning a course of action taken or persisted in, notwithstanding that at least on three previous occasions censure or warnings have been administered or an adverse remark has been entered against him;
- (g) willful slowing down in performance of work;
- (h) gambling or betting on the premises of the bank;
- (i) speculation in stocks, shares, securities or any commodity whether on his account or that of any other persons;
- (j) doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss;
- (k) giving or taking a bribe or illegal gratification from a customer or an employee of the bank;
- (l) abetment or instigation of any of the acts or omission above mentioned;
- (m) knowingly making a false statement in any document pertaining to or in connection with his employment in the bank.
- (n) resorting to unfair practice of any nature whatsoever in any examination conducted by

the Indian Institute of Bankers or by or on behalf of the bank and where the employee is caught in the act of resorting to such unfair practice and a report to that effect has been received by the bank from the concerned authority;

- (o) resorting to unfair practice of any nature whatsoever in any examination conducted by the Indian Institute of Bankers or by or on behalf of the bank in cases not covered by the above Sub-Clause (n) and where a report to that effect has been received by the bank from the concerned authority and the employee does not accept the charge;
 - (p) remaining unauthorisedly absent without intimation continuously for a period exceeding 30 days;
 - (q) misbehaviour towards customers arising out of bank's business;
 - (r) contesting election for Parliament/Legislative Assembly/Legislative Council/local bodies/municipal corporation/panchayat, without explicit written permission of the bank;
 - (s) conviction by a criminal Court of Law for an offence involving moral turpitude;
 - (t) indulging in any act of 'sexual harassment' of any woman at her workplace;
- Note: Sexual harassment shall include such unwelcome sexually determined behaviour (whether directly or otherwise) as
- (a) physical contact and advances;
 - (b) demand or request for sexual favours;
 - (c) sexually coloured remarks;
 - (d) showing pornography; or
 - (e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.
- (u) the giving or taking or abetting the giving or taking of dowry or demanding directly or indirectly from the parents or guardians of a bride or bridegroom, as the case may be, any dowry". (For State Bank of India)

40. As canvassed by the claimant, the Tribunal is required to construe the phrase "on the premises of the bank" occurring in para 5(c) of the aforesaid bipartite settlement. Bipartite Settlement, referred above, was arrived at between the parties otherwise than in the course of conciliation proceedings and is binding on the parties to the agreement. The above settlement is a written instrument and has to be construed in accordance with the settled norms, applicable for construction of written instruments. In construction of contents of Bipartite Settlement dated 10-4-2002, this Tribunal cannot be

oblivions of the rules viz., written instruments shall, if possible, be so interpreted "ut res magis valeat quam pereat" (a liberal construction should be put upon written instruments, so as to uphold them, if possible) and that such a meaning shall be given to it as may carry out and effectuate to the fullest extent the intention of the parties.

41. Elementary principle of law relative to contracts is that parties to contracts are to be allowed to regulate their rights and liabilities themselves and the Courts will only give effect to the intention of the parties as it is expressed by the contract. However the law in some cases overrides the will of the individual and renders ineffective and futile his expressed intention or contract. No court or tribunal will lend its aid to a man who founds his cause of action upon an immoral or an illegal act. A contract cannot be made the subject of an action if it be impeachable on the grounds of dishonesty, or as being opposed to public policy, if it be either contra bonos mores, or forbidden by law. No court or tribunal will allow itself to be made the instrument of enforcing obligations alleged to arise out of a contract or transaction which is illegal.

42. Bipartite Settlement dated 10th April, 2002, was entered into between the management of 52 'A' class banks as represented by the Indian Bank's Association and their workman as represented by the All India Bank Employee Association, National Confederation of Bank Employees and Indian National Bank Employees Federation. The short recital of the settlement provides that the agreement is to detail procedure for taking disciplinary action against workman in the banks, who were parties to the agreement. Para 2 of the settlement defines the expression "offence" to mean any offence involving moral turpitude for which an employee is liable to conviction and sentence under any provisions of law. Para 3 of the settlement details the procedure under which disciplinary action may be initiated against an employee, in case of his acquittal of the offence by a court of law. For sake of convenience, the provision of para 3 of the settlement are reproduced as follows:

- "3. (a) When in the opinion of the management an employee has committed an offence; unless he be otherwise prosecuted, the bank may take steps to prosecute him or get him prosecuted and in such a case he may also be suspended.
- (b) If he be convicted, he may be dismissed with effect from the date of his conviction or be given any lesser form of punishment as mentioned in Clause 6 below.
- (c) If he be acquitted, it shall be open to the management to proceed against him under the provisions set out below in Clauses 11 and 12 infra relating to discharges. However, in the event of the management deciding after enquiry not to continue him in service, he shall be liable only for termination of service with

three months' pay and allowances in lieu of notice. And he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full pay and allowance minus such subsistence allowance as he has drawn and to all other privileges for the period of suspension provided that if he be acquitted by being given the benefit of doubt he may be paid such portion of such pay and allowances as the management may deem proper, the period of his absence shall not be treated as a period spent on duty unless the management so directs.

- (d) If he prefers an appeal or revision application against his conviction and is acquitted, in case he had already been dealt with as above and he applies to the management for reconsideration of his case, the management shall review his case and may either reinstate him or proceed against him under the provisions set out below in Clauses 11 and 12 infra relating to discharge, and the provision set out above as to pay, allowances and the period of suspension will apply, the period up-to-date for which full pay and allowances have not been drawn being treated as one of suspension. In the event of the management deciding, after enquiry not to continue him in service, the employee shall be liable only for termination with three months' pay and allowances in lieu of notice, as directed above".

43. Out of the provisions of para 2, 3, 11 and 12 of the settlement, it emerges that an enquiry may be conducted against an employee of the bank if he allegedly commits an offence involving moral turpitude. It is a matter of common knowledge that every offence punishable under law would not amount to an offence involving moral turpitude. To term an offence involving moral turpitude, the act must be vile or harmful to society in general or contrary to excepted rules or rights and duties between man and man. The test for whether an offence involves moral turpitude are as follows: (1) whether the act leading to conviction was such as could shock the moral conscience of society in general? (2) whether the motive which led to the act was a base one? (3) whether on account of the act having been committed the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society?

44. In *Shalimar Rope Works* (supra) the Labour Appellate Tribunal held that the norms of place where the act of indiscipline takes place, is not the only factor and if it is subversive of discipline or involves moral turpitude, that is enough to give jurisdiction to the management to take disciplinary action against the employee. In *Air India*

Ltd. [1952 (2) LLJ 602] the workman assaulted his officer near Shantacruz Station, outside the factory premises and it was held that the act was subversive of discipline. Similar view was taken in *Mill Mazdoor Sabha* [1957 (1) LLJ 415], *Chhotelal Ayodhya* (1958 ICR 363) and *Mehangaram* [1957 (1) LLJ 603]. From the above precedents it is evident that in case of moral turpitude the management will have jurisdiction to initiate disciplinary action against an employee, even if act of indiscipline takes place away from the premises where he is employed and beyond his duty hours. Same proposition has been embedded in the provisions of para 2, 3, 11 and 12 of the aforesaid bipartite of settlement. For initiation of domestic action on commission of an offence involving moral turpitude it is not necessary that it should be committed at work place or during duty hours.

45. With the above aspects, collected from other parts of the settlement referred above, now efforts would be made to construe the phrase, "on the premises of the bank" used in clause 5 (C) of the settlement. At the cost of repetition it is said that an employer bank assumes jurisdiction to punish his employee even if the misconduct is committed outside the premises or when the employee was off duty. An employer would not attempt to improve moral or ethical tone of his employees' conduct in relation to strangers not employed in his concern by the use of coercive process of disciplinary jurisdiction. However when an act committed outside the premises is subversive of discipline, it will attract disciplinary action, in case the act has direct connection with the contentment or comfort of the men at work or has a natural bearing on the smooth and effective working of the concern. In that situation it will be subversive of discipline. If an employee misbehaved himself in such away even outside the premises of a concern or even when he was off duty that it impaired the reputation of the concern and calculated to create resentment among the workers, the concern would be perfectly justified in treating that conduct as calculated to harm its reputation and one being subversive of discipline. See *Dewan Badri Das* [1962 (1) LLJ 526].

46. Trade union as defined in the Trade Union Act, 1926 is combination of workmen and may include any federation of two or more trade unions. The definition given in Section 2(h) of the Trade Union's Act, 1926, is reproduced thus:

- "2 (h) Trade Union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions.

Provided that this Act shall not affect—

- (i) any agreement between partners as to their own business;
- (ii) any agreement between an employer and those employed by him as to such employment; or
- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft”.

47. As is evident, out of the definition of trade union that a trade union may be of workmen employed in the same industry or in industries closely allied to or connected with one another. The proposition makes it clear that in a trade union, the workmen employed in one bank or the other may be its members. The members of the trade union, employed in different banks, may become its officer bearers. An office bearer of a trade union may go in a bank, with whom he is not employed and may resort to riotous or disorderly or indecent behaviour. When proceeded departmentally he may take objection that such a behaviour did not occur on the premises of his employer bank. It was not the intention of the parties, who were signatories to the Bipartite Settlement dated 10th April 2002. Had this been the intention the phrase “on the premises of the employer bank” would, have been used in clause 5 (c) of the aforesaid settlement. No such words of limitation were used by the parties to the above settlement. Settlement dated 10-4-2002, defines gross, misconduct and details procedure for punishment of delinquent employee. Riotous or disorderly or indecent behaviour would constitute a misconduct which is subversive of discipline. For such a misconduct an employer may assume jurisdiction to punish his employee even if the act was committed outside the premises and the employee was off duty.

48. Riotous or disorderly or indecent behaviour is such a misconduct which may impair reputation of the concern and may create resentment and unrest amongst the workers. Such act even if committed outside the premises of a concern by an employee who was off duty would ensue its consequences within the work place of the employer. The words, “on the premises of the bank” would refer not only to the place where the act is committed but may refer the place also where consequences of such an act manifests. If the act has the effect of subverting discipline or good behaviour within the premises or precincts of the establishment then it would be a misconduct. Therefore the phrase “in the premises of the bank”, used in clause 5 (c) of the Bipartite Settlement dated 10-4-2002, would denote the premises where the act was committed as well as the premises where the consequence of such an act manifests itself. Such construction would uphold the intention of the signatories and effectuate it to the fullest extent. A different construction would lead to

absurd result, being contrary to the provisions of para 2, 3, 11 and 12 of the aforesaid settlement.

49. The above construction is fortified by the law laid by the Apex Court in *Mool Chandani Electrical & Radio Industries Ltd.* [1975 (4) SCE 731] wherein the court had to construe provisions of the standing orders, providing commission of any act subversive of discipline or good behaviour in the premises or precincts of the establishment as misconduct. In that case an employee of the factory was attacked and on account of that incident various other employees lodged the complaint. It was contended that it was not a misconduct since the attack did not take place inside the premises. The court ruled that the words, “within the premises” refers not only to the place where the act was committed but where consequence of such an act manifests itself. It was further held that if the act has the effect of subverting discipline or good behaviour within the premises or precincts of the establishment, then it will be misconduct. The court announce that contrary construction would be quite unreasonable.

50. In view of the reasons referred above, it is announced that the contention of the claimant to the effect that his acts at the Head Office of the Gramin Bank do not amount to misconduct, is uncalled for. The phrase, “on the premises of the bank”, would mean the premises of the bank where the act was committed or where consequence of such an act manifested. Sh. Vohra was a scale IV Officer of the bank. He was deputed to work as Chairman of the Gramin Bank. Riotous, disorderly or indecent behaviour on his face in the Head Office of Gramin Bank would manifest its consequences within the establishment of the bank. In case delinquent employee would go unpunished such situation may cause unrest amongst the employees of the bank. The incident, referred above, would harm reputation of the bank, besides being subversive of discipline. Consequently it is concluded that Sh. Kanti Rathi had committed disorderly, riotous and indecent behaviour on the premises of the bank, within the meaning of para 5 (c) of the Bipartite Settlement dated 10-4-2002.

51. Though the employees have got fundamental right to demonstrate yet they cannot claim to exercise that right at their work place. Slogan shouting at the premises of the management used as place of work amounts to misconduct. Demonstration and slogan shouting at the Head Office premises of the Gramin Bank is likely to disturb orderly working of the Gramin Bank and amounts to obstruction of work. Disorderly or riotous or indecent behaviour of the claimant at Head Office premises of the Gramin Bank, which was directed against a scale IV Officer of the bank, deputed to work as Chairman of the Gramin Bank, was calculated to harm the reputation of the bank. This behaviour was against a person, who was likely to be posted as superior officer of the claimant and thus it was likely to affect the bank prejudicially. Taking into account all these facts, it is announced that the bank has been able to establish misconduct of the claimant.

52. Now it would be considered as to whether punishment awarded to the claimant is harsh. The claimant was awarded punishment of bringing him down to two stages in scale of pay. Disorderly or riotous or indecent behaviour tantamount to subversive of discipline. Language used by the claimant against the Chariman, Gramin Bank, shows lack of culture. But the gesture with which indecent language was used would show his blame-worthy conduct. Use of intemperate language against a scale IV Officer, who was superior in hierarchy to the claimant, besides adopting threatening posture made the act more serious. Highest executive of the Gramin Bank was humiliated in presence of his subordinates. These aspects make it clear that the misconduct is alarming. Punishment awarded to the claimant shows considerate attitude of the Disciplinary Authority towards him. It cannot be said that the punishment is disproportionate to his misconduct. Hence punishment, awarded in the matter, does not call for any interference.

53. Whether the punishment would relate back to the date, when it was awarded to the claimant? For an answer, it is expedient to consider the precedents handed down by the Apex Court. In *Ranipur Colliery* [(1959) Supp. 2 SCR 719] the employer conducted a domestic enquiry though defective and passed an order of dismissal and moved the Tribunal for approval of that order. It was ruled therein that if the enquiry is not defective, the Tribunal has only to see whether there was a prima facie case for dismissal and whether the employer had come to the bonafide conclusion that the employee was guilty of misconduct. Thereafter on coming to that conclusion that the employer had bonafide come to the conclusion that the employee was guilty, that is, there was no unfair labour practice and no victimization, the Tribunal would grant the approval which would relate back to the date from which the employer had ordered the dismissal. If the enquiry is defective for any reason, the Tribunal would also have to consider for itself on the evidence adduced before it whether the dismissal was justified. However on coming to the conclusion on its own appraisal of evidence adduced before it that the dismissal was justified its approval of the order of dismissal made by the employer on defective enquiry would still relate back to the date when order was made.

54. In *Phulbari Tea Estate* [1960 (I) S.C.R. 32] the domestic enquiry held by the employer culminating in the order of dismissal was found to be invalid, being in gross violation of the rules of natural justice. Even before the Tribunal, the employer did not lead proper evidence to justify the order of dismissal and contended itself by merely producing the statement of certain witnesses recorded during the domestic enquiry and the workman had no opportunity to cross-examine the witnesses before the Tribunal. In the absence of any evidence before it, justifying the dismissal, the Tribunal set aside the order of

dismissal and granted compensation in lieu of reinstatement, which order was upheld by the Apex Court. In that case question of relating back of the order of dismissal did not arise.

55. In *P.H. Kalyani* [1963 (1) LLJ 673] the employer dismissed the workman after holding a domestic enquiry into the charges. Since some dispute was pending before the Industrial Tribunal, the employer applied for "approval" of action of dismissal in compliance with the proviso to Section 33(2)(b) of the Act. The workman made an application under Section 33-A of the Act. Apart from relying on validity of domestic enquiry, the employer adduced all the evidence before the Tribunal in support of its action. On basis of evidence before it, the Tribunal came to the conclusion that the facts of misconduct committed by the workman were of serious nature involving danger to human life and therefore dismissed the application under Section 33-A and accorded "approval" to the action of dismissal taken by the employer. In this situation the Apex Court held that if the enquiry is not defective and the action of the employer is bonafide, the Tribunal will grant the approval" and the dismissal "relate back to the date from which the employer had ordered dismissal". If the enquiry is invalid for any reason, the Tribunal will have to consider for itself on the evidence adduced before it, whether the dismissal was justified. If it comes to the conclusion on its own appraisal of such evidence that the dismissal was justified, the dismissal would "still relate back to the date when the order was made". *Sasa Musa Sugar Works case* [1959 (2) LLJ. 388] was distinguished saying that observations made therein "apply only to a case where the employer had neither dismissed the employee nor had come to the conclusion that a case for dismissal had been made. In that case, the dismissal of the employee takes effect from the date of the award and so until then the relation of employer and employee will continue in law and in fact".

56. *D.C. Roy* [(1976) Lab. I.C. 1142] is the illustration where domestic enquiry held by the employer was found to be invalid being violative of principles of natural justice and the employer had justified the order of dismissal by leading evidence before the Labour Court, on appraisal of which the Labour Court found the order of dismissal justified. In appeal, the Apex Court upheld the award with the observation that "the ratio of *Kalyani's case* (supra) would therefore, govern the case and the judgment of the Labour Court must relate back to the date on which the order of dismissal was passed".

57. In *Gujrat Steel Tubes Ltd.* [1980 (1) LLJ 137] inverted image of the *D.C. Roy's case* was presented by a majority of three judge bench wherein it was held that "where no enquiry has preceded punitive discharge. and the Tribunal for the first time upholds the punishment. this court in *D.C. Roy vs. Presiding Officer* (supra) has taken the view that full wages be paid until the date of the

award. There cannot be any relation back of the date of dismissal when the management passed the void order". Though the court ruled that law laid in D.C.Roy is correct yet it followed obiter instead of the decision. Observations of the Apex Court in above decision, bearing on the relate back rule, were faulted in R.Thiruvirkolam [1997 (1) SCC 9] on the ground that they "are not in the line with the decision in Kalyani which was binding or with D.C. Roy to which learned Judge Krishna Iyer J. was a party. It also does not match with the juristic principle discussed in Wade". The view taken in R.Thiruvirkolam (supra) was affirmed in Punjab Dairy Development Corporation Ltd. [1997 (2) LLJ 1041].

58. In view of the catena of decisions, detailed above, it is clear that an employer can justify its action by leading evidence before the Tribunal. This equally applies to cases of total absence of enquiry and defective enquiry. A case of defective enquiry stands on the same footing as no enquiry. If no evidence is led or evidence adduced does not justify the dismissal by the employer, the Tribunal can order reinstatement or payment of compensation as it may think fit. But if it finds on the evidence adduced before it that the dismissal is justified, the doctrine of relate back is pressed into service to bridge the time gap between the rupture of the relationship of employer and employee and the finding of the Tribunal.

59. If the workman is to be paid wages upto the date of the award of the Tribunal, the Parliament has to enact so, declares the Delhi High Court in Ranjit Singh Tomar (ILR 1983 Delhi 802). Obviously the Act does not make any provision for the situation. Precedents in Ghanshyam Das Shrivastava [1973 (1) SCC 656], Capt. M.Paul Anthony [1999 (3) SCC 679] and South Bengal State Transport Corporation [2006 (2) SCC 584] nowhere deal with the controversy, hence are not discussed.

60. Applying the law referred above, it is ordered that the punishment of bringing him down to two stages in scale of pay, awarded to the claimant will relate back to the date when the bank passed an order against him in that regard. The claimant is not entitled to any relief. An

award is, accordingly, passed. It be sent to the appropriate Government for publication.

dated : 12-3-2012

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 8 मई, 2012

का.आ. 1731.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा 1 जून, 2012 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"आन्ध्र प्रदेश राज्य के रंगारेड्डी जिले में महेश्वरम् मण्डल के मनखल, सरदारनगर, राविराला, श्रीनगर, महेश्वरम्, सिरिगिरीपुरम्, गंगाराम और तुम्मलुरु राजस्व गाँवों की सीमा में आने वाले सभी क्षेत्र।"

[सं. एस-38013/16/2012-एस.एस.1]

नरेश जायसवाल, अवर सचिव

New Delhi, the 8th May, 2012

S.O. 1731.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st June, 2012, as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

"All the area falling in the revenue villages of Mankhal, Sardarnagar, Raviral, Srinagar, Maheshwaram Sirigiripuram, Gangaram and Tummaluru of Maheshwaram Mandal in Ranga Reddy district of Andhra Pradesh."

[No. S-38013/16/2012-S.S.1]

NARESH JAISWAL, Under Secy.